

# **VILLAGE OF BOSQUE FARMS COMPREHENSIVE ZONING ORDINANCE SECTION 10-1**

## **Table of Contents**

<b>10-1-1</b>	<b>TITLE</b>
<b>10-1-2</b>	<b>PURPOSE</b>
<b>10-1-3</b>	<b>APPLICATION OF THE ZONING ORDINANCE</b>
<b>10-1-4</b>	<b>DEFINITIONS</b>
<b>10-1-5</b>	<b>GENERAL REGULATIONS</b>
	A. Access to Structures
	B. Agricultural Activities
	C. Building and Structure Height
	D. Building and Structure Setback
	E. Development
	F. Exterior Lighting Requirements
	G. Fence
	H. Garage or Yard Sale
	I. Hobby Kennel
	J. Minimum Lot Sizes and Open Space Requirement
	K. Mobile Home/Manufactured Home Installation
	L. Recreational Vehicles
	M. Refuse Disposal
	N. Storm Water Drainage
	O. Vision Clearance
	P. Water and Wastewater Requirements
	Q. Floodplain Compliance
	R. Accessory Structures
<b>10-1-6</b>	<b>ZONE DISTRICT BOUNDARIES</b>
<b>10-1-7</b>	<b>ESTABLISHMENT OF ZONE DISTRICTS</b>
<b>10-1-8</b>	<b>A-R AGRICULTURAL/RESIDENTIAL ZONE</b>
	A. Intent
	B. Permissive Uses
	C. Conditional Uses
	D. Special Use Permits
	E. Minimum Lot Size, Density, and Open Space Requirements
<b>10-1-9</b>	<b>R-1 CONVENTIONAL SINGLE-FAMILY RESIDENTIAL ZONE</b>
	A. Intent
	B. Permissive Uses
	C. Conditional Uses
	D. Special Use Permits
	E. Minimum Lot Size, Density, and Open Space Requirements
<b>10-1-10</b>	<b>R-1A MIXED SINGLE-FAMILY/MOBILE HOME RESIDENTIAL ZONE</b>
	A. Intent
	B. Permissive Uses
	C. Conditional Uses
	D. Special Use Permits
	E. Minimum Lot Size, Density, and Open Space Requirements

**10-1-11**

**C-1 COMMERCIAL ZONE**

- A. Intent
- B. Designation of Commercial Zone
- C. Application
- D. Permissive Uses
- E. Conditional Uses
- F. Special Use Permits
- G. Regulated Business
- H. Regulated Business Requirements
- I. Special Provisions
- J. Setbacks, Lot Size and Open Space
- K. Exceptions

**10-1-12**

**WPOZ WELLHEAD PROTECTION OVERLAY ZONE**

- A. Intent
- B. Designation of Overlay Zone
- C. Conditional Uses
- D. Prohibited Uses
- E. Special Conditions
- F. Substantial Modification
- G. Administration

**10-1-13**

**CONDITIONAL USE PROCEDURES**

- A. Permit Required
- B. Application
- C. Public Notification
- D. Guidelines
- E. Denial
- F. Violation and/or Breach of Conditional Use Permit
- G. Re-evaluation
- H. Expiration
- I. Renewable Conditional Use
- J. Special Requirements
- K. Additional Requirements
- L. Home Occupations
- M. Bed and Breakfast

**10-1-14**

**SPECIAL USE PERMITS**

- A. Intent
- B. Application
- C. Special Provisions
- D. Termination of a Special Use Permit
- E. Revocation of Existing Special Use Zones and Issuance of a Special Use Permit

**10-1-15**

**ZONE CHANGE AMENDMENT PROCEDURES**

- A. Intent
- B. Map Amendment Procedures
- C. Ordinance Text Change Procedures

**10-1-16**

**VARIANCE PROCEDURES**

- A. Definition
- B. Application
- C. Considerations
- D. Posting Requirements
- E. Requirements

**10-1-17**

**NON-CONFORMITIES**

- A. Definition
- B. Certificate of Non-Conformance
- C. Expansion
- D. Reconstruction

	E.	Discontinuance
	F.	Vested Rights
	G.	Non-Conforming Lot Size
	H.	Special Exemption
<b>10-1-18</b>		<b>DEVELOPMENT REVIEW</b>
	A.	Review Required
	B.	Mobile Home/Manufactured Housing Installation Permits
	C.	On-Site Liquid Waste Disposal Permits
	D.	Review Process and Fee
<b>10-1-19</b>		<b>OFF-STREET PARKING AND LOADING REQUIREMENTS</b>
	A.	Parking and Loading Space Required
	B.	Number of Parking Spaces
	C.	Parking Design Standards
	D.	Development/Building Permit Review
	E.	Off-Street Loading Requirements
<b>10-1-20</b>		<b>SIGNS AND OUTDOOR ADVERTISING DEVICES</b>
	A.	Special Definitions
	B.	Sign Permits
	C.	General Provisions
	D.	Regulations for Business Signs
	E.	Regulations for Auxiliary Signs
	F.	Regulations for Temporary Signs
	G.	Abandonment and Removal
<b>10-1-21</b>		<b>FEES</b>
	A.	Applications and Permits
	B.	Fees
<b>10-1-22</b>		<b>APPEALS</b>
	A.	Right of Appeal
	B.	Application
	C.	Public Hearing
	D.	Stay of Proceedings
	E.	Decision
<b>10-1-23</b>		<b>ADMINISTRATION AND ENFORCEMENT</b>
	A.	Administrative Official
	B.	Inspection
	C.	Information and Records
	D.	Violations: Complaints and Notification
<b>10-1-24</b>		<b>PENALTIES</b>
<b>10-1-25</b>		<b>INTERPRETATION AND CONFLICT</b>
<b>10-1-26</b>		<b>APPEARANCE</b>
<b>10-1-27</b>		<b>SEVERABILITY</b>
<b>10-1-28</b>		<b>REPEAL</b>
<b>10-1-29</b>		<b>EFFECTIVE DATE</b>

### **10-1-1 TITLE.**

These regulations shall be known as the "Comprehensive Zoning Ordinance of the Village of Bosque Farms, New Mexico," and shall be referred to herein as "this Ordinance."

### **10-1-2 PURPOSE.**

The regulations and restrictions of this Ordinance are designed to lessen congestion in the streets and public ways; to secure safety from fire, flood and other dangers; to promote health and the general welfare of the residents; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions for transportation, water, sewage, schools, parks, and other requirements; to conserve the value of buildings and land; to encourage the most appropriate use of land throughout the Village of Bosque Farms; and to maintain the rural environment of the community.

### **10-1-3 APPLICATION OF THE ZONING ORDINANCE.**

All property except that property owned or controlled by the Federal Government, the State of New Mexico, the County of Valencia, the Village of Bosque Farms, and their subdivisions or agencies, is governed according to the Zone District in which it is located. Any use not classified as permissive or conditional within a particular Zone District is hereby prohibited from that Zone District, except as otherwise provided herein. The Zone Districts and boundaries of Zone Districts described herein are shown on the Zone Map, which shall be made a part of this Ordinance as is fully described herein. The Governing Body shall adopt administrative policies and procedures to effectuate and carry out the purpose and application of the Ordinance, which said administrative policies, and procedures shall be duly enforceable under this Ordinance.

### **10-1-4 DEFINITIONS.**

For the purpose of this Ordinance, standard dictionary definitions shall be used except for certain words or phrases used herein which shall be interpreted as follows:

1. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
3. The words "shall" and "must" are mandatory and the word "may" is permissive.
  - A. **"Abandoned Well"** means a wellhead whose use has been permanently discontinued or which is in such disrepair that its continued use for the purpose of obtaining groundwater is impracticable or may constitute a health hazard.
  - B. **"Accessory Uses and Structures"** are customarily accessory and clearly incidental and subordinate to principal uses and structures.
  - C. **"Accessory Living Quarters"** means temporary living quarters within an allowed accessory structure only for the reason of a legitimate hardship or medical necessity. This unit shall not be used as a rental unit and shall not exceed five-hundred (500) square feet of floor space.

- D. **"Adult Entertainment Establishment"** means businesses which either directly or indirectly provide sex-related products and services or adult entertainment
- E. **"Agent"** anyone authorized by notarized letter and signed by the property owner to represent same.
- F. **"Agricultural Equipment"** means farm field and farmstead machinery used for the production of crops and agricultural livestock.
- G. **"Animal Sanctuary/Shelter"** means a non-profit facility for the short or long-term care and custody of animals, which may include lost pets, owner released pets, cruelty cases, rescued animals and/or permanent retirement candidates.
- H. **"Bail Bond"** means a written promise signed by a defendant or a surety (one who promises to act in place of another) to pay an amount fixed by a court should the defendant named in the document fail to appear in court for the designated criminal proceeding at the date and time specified.
- I. **"Banking and Financial Services"** means any state or federally chartered bank, saving association, credit union, or industrial loan company, retail sellers engaged primarily in the business of selling consumer goods that cashes checks or issues money orders and is incidental to its main purpose or business and is offered as a service to customers, but excludes any establishment whose primary purpose is to provide cash advances, pay day loans, pay day advances, and similar services
- J. **"Bed and Breakfast"**. A bed and breakfast is an owner managed and occupied residential structure used as a lodging establishment where a room or rooms are rented on a nightly basis, and in which only breakfast is included as a part of the basic compensation.
- K. **"Body Art"** means tattooing, body piercing or scarification but does not include practices that are considered medical procedures by the New Mexico Medical Board.
- L. **"Body Art/Modification Establishment"** means any establishment that engages in the business of tattooing and/or branding and body piercing of human beings, including scarification. A permanent picture, design, or other marking made on the skin by pricking it and staining it with an indelible dye. This excludes the application of permanent makeup in a Salon setting with appropriate equipment and the piercing of ears with the use of a piercing gun.
- M. **"Check Cashing/Pay Day Loan Establishment"** means any establishment whose primary purpose is to provide cash advances, pay day loans, pay day advances, and similar services. It does not include a state or federally chartered bank, saving association, credit union, or industrial loan company, retail sellers engaged primarily in the business of selling consumer goods that cashes checks or issues money orders and is incidental to its main purpose or business and is offered as a service to customers.
- N. **"Collector Street"** is a street that serves as a connection between a major or secondary thoroughfare and several minor streets. The term includes the principal entrance streets of a residential development and streets for major circulation within such a development.
- O. **"Commission"** means the Village of Bosque Farms Planning and Zoning Commission.

- P. **"Conditional Use"** means one of those uses enumerated as Conditional Uses in a given Zone District. A permit for such use shall be granted upon approval by the Commission. A Conditional Use Permit shall be either permanent or renewable, as established by this Ordinance.
- Q. **"Contiguous"** means abutting or touching and/or separated by nothing more than a ditch, canal, or right-of-way.
- R. **"Contamination"** means the presence of any harmful substance, which is likely to unreasonably injure human health, animal or plant life, property, or public welfare.
- S. **"Day Care Facility"** means an establishment or facility which has the primary function of providing care, services and supervision to children.
- T. **"Development"** means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading paving, excavation or drilling operations.
- U. **"Dwelling Unit"** means any structure or part of a structure intended for human occupancy and containing one or more connected rooms and a single kitchen designed for and occupied by no more than one family for living and sleeping purposes. A dwelling unit may include a mobile home, a modular housing unit, manufactured house, site built house or planned residential development.
- V. **"Dwelling Unit, Conventional"** means a single-family detached dwelling unit, which is installed on a permanent foundation and which is either:
1. A site-built unit constructed in accordance with the standards of the New Mexico Uniform Building Code; or
  2. A Multi-Section Manufactured Home or Modular Home that is a single-family dwelling with a heated area of at least 36 (thirty-six) by 24 (twenty-four) feet and at least eight hundred sixty-four (864) square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act [Chapter 60, Article 14 NMSA 1978] and with the regulation made pursuant thereto relating to permanent foundations.
- W. **"Dwelling Unit, Caretaker"** means the dwelling unit of a person who takes care of the property of an owner in the owner's absence. A caretaker dwelling unit shall allow for spouses and dependent children. The caretaker dwelling unit shall be within one of the structures located on the lot, or it may be a separate structure, mobile home/manufactured home, or modular unit.
- X. **"Easement"** means rights granted to Public Utilities, for ingress and egress to serve water, sewer, telephone/cable, gas and electric lines and the right granted to a landowner for ingress and egress to property by either purchase, deed, or adverse possession or any other legal means.
- Y. **"Family Day Care Home"** means an occupied dwelling unit in which a person provides, for remuneration, care for at least five (5) but not more than six (6) children, and that no more than two (2) of those be under the age of two (2), on a regular basis for less than 24 (twenty-four) hours per day. The resident provider's children who are age 6 (six) or more shall not be counted for this definition.

- Z. **"Frontage"** means a distance measured along a roadway right-of-way line.
- AA. **"Fence"** means a structure, other than a building, which serves as a barrier and used as a boundary or means of protection or confinement. This includes a masonry fence or wall and privacy fence.
- BB. **"Fortune Tellers"** means fortune tellers, psychics, clairvoyants, palmists, and similar trades.
- CC. **"Galvanized Steel"** means a metal panel coated with zinc or corrosion resistance material.
- DD. **"Garage or Yard Sale"** means a sale of used household or personal articles held on the seller's premises.
- EE. **"Governing Body"** means the Village of Bosque Farms Council.
- FF. **"Grade"** means the average elevation of the finished ground level at the center of all walls of a building or all sides of a structure.
- GG. **"Groundwater"** means water found beneath the land surface in a saturated zone.
- HH. **"Guest Room"** means a room or a group of rooms forming a single habitable unit which is located within the walls of a dwelling unit and which is used or intended to be used for sleeping and living, but not for cooking or eating purposes and which is rented individually as a unit.
- II. **"Hardship"** means to cause privation or suffering.
- JJ. **"Hazardous Materials"** means substances defined in Section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or as regulated under Subtitle C of the Federal Resource Conservation and Recovery Act. (RCRA).
- KK. **"Hazardous Waste"** means materials that are corrosive, flammable, reactive or toxic.
- LL. **"Height"** when applied to a building, means the vertical distance from the finished lot grade to the highest point of the coping of a flat roof, or the deck line of a mansard roof or the average height between the plate and the ridge of a gable, hip, or gambrel roof, or to the highest point of any other roof style not mentioned in this definition.
- MM. **"Home Occupation"** means an occupation or activity clearly incidental and secondary to use of the premises for a dwelling unit. Home Occupations approval from either the Planning & Zoning Administrator/Officer or Commission depending on the type of use requested as per Section 10-1-13.L. of this Ordinance.
- NN. **"Inoperable Motor Vehicle"** means any motor vehicle which is incapable of being propelled under its own power.
- OO. **"Kennel"** means:
1. **"Commercial Kennel"** means any building, buildings or land designed or arranged for boarding dogs, cats, and other household pets, and where grooming, breeding, boarding, training or selling animals is conducted in the Community Commercial Zone (C-1).

2. **"Hobby Kennel"** means any building, buildings or land designed or arranged for housing dogs, cats, and other household pets belonging to the property resident in all residential zones (A-R, R-1, and R-1A).
- PP. **"Kitchen"** means a room or other place equipped with any combination of the following: a stove/oven, refrigerator, small cooking devices, a sink, where food may be stored or prepared.
- QQ. **"Local Street"** means a street of relatively short length that provides direct access to a limited number of contiguous residential properties designed to discourage use by through traffic.
- RR. **"Localized Storm Water"** means surface water deposited on a particular area of land by direct precipitation and not by an overflow of surface waters from other land areas.
- SS. **"Lot"** means an area of land, described by metes and bounds, recorded and filed in the Valencia County Clerk's Office in accordance with appropriate laws and Ordinances. Such lot shall have frontage on dedicated public right-of-way or on an approved private roadway for ingress and egress.
- TT. **"Medical Use of Cannabis Establishment"** means any facility, building, space, or grounds licensed for the production, possession, testing, manufacturing, or distribution of cannabis, concentrates or cannabis-derived products.
- UU. **"Metal Intake/Recycling Center"** means any business engaged in purchasing or otherwise acquiring for sale or barter, any material such as old iron, copper, brass, lead, zinc, tin, aluminum or other metals, metallic cable, wire, rope, bottles, rubber, batteries, e-scrap or other like material.
- VV. **"Mobile Home Park"** means an area of land on which space is leased or rented for occupancy for thirty (30) days or more by mobile homes, and which contains permanent facilities and services for the use of the mobile home occupants.
- WW. **"Mobile Home (also known as Manufactured Housing)"** means a structure, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used for a dwelling with or without a permanent foundation when connected to the required utilities and includes plumbing, heating, air conditioning, and electrical systems contained therein.
- XX. **"Modular Structure"** means any structure built for use of occupancy by person or property, whether or not designed to be placed on a permanent foundation. Modular structures include factory-built buildings and subassemblies for manufactured residential and commercial units, modular homes and pre-manufactured homes. Modular structures does not include non-assembled component parts that are subject to all permit and inspection requirements, or to manufactured housing structures that are subject to federal regulation as per Section 14-12-3.7.K. of the NMAC.
- YY. **"Motor Vehicle"** means a vehicle (such as, but not limited to, a car, truck, or motorcycle) that is powered by a motor and was at any time designed to carry passengers.
- ZZ. **"Motor Vehicle Sales Lot"** means any lot or parcel of land where a dealer sells new/used/consignment motor vehicles.

- AAA. **"A Multi-Section Manufactured Home or Modular Home"** means a single-family dwelling with a heated area of at least 36 by 24 feet (thirty six by twenty four) and at least eight hundred sixty-four (864) square feet and constructed in a factory to the standards of the United States department of housing and urban development, the National Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act [Chapter 60, Article 14 NMSA 1978] and with the regulation made pursuant thereto relating to permanent foundations.
- BBB. **"Nonconforming Uses, Lots, or Structures"** means a structure or use of a structure or land which does not conform to the regulations of this Ordinance and which lawfully existed on the effective date of those regulations with which it does not conform.
- CCC. **"Overlay Zone District"** An overlay zone district is created to identify a special resource or development area and to adopt new provisions that apply in that area in addition to the provisions of the underlying zone district. The provisions of an overlay zone district can be more restrictive or more expansive than those contained in the underlying zone district. An overlay zone district can be coterminous with existing property boundaries or contain only parts of one or more properties and may extend over more than one zone district.
- DDD. **"Overlay Zone, Wellhead Protection"** means an area designated by the Village of Bosque Farms to protect the groundwater source of municipal water supply wells from contamination originating from human activities.
- EEE. **"Owner Occupied"** means a dwelling occupied by a person or persons who shall own at least 51% (fifty-one percent) of said dwelling unit.
- FFF. **"Pawn Broker"** means an individual or business (**pawnshop** or **pawn shop**) that offers secured loans to people, with items of personal property used as collateral.
- GGG. **"Permissive Use"** means a specific use allowed in a particular Zone District.
- HHH. **"Planned Residential Development (PRD)"** is a development approach that creates open space in residential development and encourages imaginative site building and design by permitting greater flexibility in zoning requirements than is permitted by other Sections of this Ordinance.
- III. **"Premises"** means any lot or combination of contiguous lots held in single ownership, together with the development thereon.
- JJJ. **"Recreational Vehicle"** means a structure which is designed or used as temporary living quarters for recreation, camping, or travel, and which may be a self-propelled motor vehicle or designed to be towed or mounted on a motor vehicle.
- KKK. **"Regulated Business"** means any business requiring additional regulation as listed under 10-1-11.G.
- LLL. **"Right-of-Way"** means a dedicated and accepted public land deeded to the Village of Bosque Farms, reserved by plat, or otherwise acquired by the Village, County, or State for the use of the public for the movement of people, goods, and vehicles.
- MMM. **"Roadway"** means that portion of public right-of-way or private way or thoroughfare, which is primarily devoted to vehicular use.

- NNN. **"Salvage or Scrap Facility"** means salvage yard, scrap yards, wrecking yard, junk yard, dismantler or any entity in the business of outdoor storage or deposit for storing, keeping, processing, buying or selling disused vehicles, disused machinery or other disused goods or materials for resale.
- OOO. **"Scrap Tire"** means a tire that is no longer suitable for its originally intended purpose because of wear, damage, defect or obsolescence.
- PPP. **"Service Bay"** means any enclosed work area for the maintenance or repair of vehicles, comprising an average floor area of four-hundred-twenty (420) square feet per bay to accommodate both service and access requirements.
- QQQ. **"Setback"** means the required distance between every building or structure (fences, walls, and signs excepted), and a boundary line of the lot upon which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure, except as otherwise provided in this Ordinance.
- RRR. **"Setback, Front"** means the minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, bordering on a roadway.
- SSS. **"Setback, Rear"** means the minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, which is opposite and most distant from a roadway and does not intersect with a roadway.
- TTT. **"Setback, Side"** means the minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, which intersects a roadway.
- UUU. **"Sign"** means a device designed to inform or attract the attention of persons not on the premises on which the device is located. All signs within the Village of Bosque Farms shall require a permit, unless otherwise specified, in accordance with this Ordinance (Section 10-1-20).
- VVV. **"Skid Row"** means a high density of businesses that may have the potential to create adverse effects on the surrounding area and community.
- WWW. **"Smoke Shop"** means any business devoting more than fifteen percent (15%) of the total floor space for display for sale of smoking or tobacco paraphernalia or whose gross dollar volume of business is over twenty-five percent (25%) from sales of smoking or tobacco paraphernalia.
- XXX. **"Solid Fence"** means block, ribbed metal panels, adobe, solid vinyl wood panel or other fencing that has zero percent (0%) open area.
- YYY. **"Special Use Permit"** means a permit approving uses which require special consideration as listed in 10-1-11.F.
- ZZZ. **"Structure"** means anything constructed, placed, or erected, above ground level which requires location on the ground or is attached to something having a location on the ground but not including a tent, vehicle, vegetation, public utility pole or line, signs or fences. For the purpose of this Ordinance, a mobile home is a structure with or without wheels when located on any lot.

AAAA. **"Substantial Improvement"** means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred.
3. For the purpose of this definition "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
  - a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
  - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

BBBB. **"Tire Shop"** means any entity conducting sales or services of tires. To include, but not limited to, changing, replacing, balancing, aligning or otherwise servicing tires or the sales of new or used tires.

CCCC. **"Trailer"** means a non-motorized vehicle designed to be pulled behind a motor vehicle.

DDDD. **"Underground Storage Tank"** means a single tank or combination of tanks, including underground pipes connected thereto, which are used to contain an accumulation of fuels, hazardous materials, or other regulated substances, and the volume of which, including the volume of the underground pipes connected thereto, is ten (10) per centum or more beneath the surface of the ground. This definition does not include septic tanks.

EEEE. **"Variance"** means a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest (10-1-16 of this Ordinance).

FFFF. **"Vehicle"** means any motor vehicle, recreational vehicle, trailer or agricultural equipment.

GGGG. **"Vehicle Repair, Light"** means checking and topping off of fluids (not changing fluids), replacement of bulbs and fuses, checking and adjusting of tire pressure (not changing of tires), charging of batteries (not changing), windshield repair.

HHHH. **"Vehicle Repair, Major"** means repairs that produce relatively high levels of noise, vibration and fumes and, more specifically, include the following types of repairs to motor vehicles and repairs of a similar nature with respect to impacts on nearby properties: air conditioning service, brake repair/replacement, engine oil changes, fluids replacement, exhaust system repair/replacement, auto body customizing, auto body sheet metal/fiberglass/plastic repair/replacement, auto body prepping/painting/media blasting, chassis fabrication/repair, complete engine/transmission rebuild and replacement.

- IIII. **"Vehicle Repair, Minor"** means repairs and servicing that will produce relatively low noise, vibration and fumes and, more specifically, include the following types of repairs to motor vehicles: shock absorber/spring/strut replacement, tire balancing/installation, wheel alignment, windshield/glass replacement, tune-ups, diagnostics, emission control service.
- JJJJ. **"Visual Barrier Fence"** means wood panel fencing, chain-link with slats, mess fencing or any other fencing which provides twenty-five percent (25%) or less open area per square foot of fencing.
- KKKK. **"Warehousing Operations"** includes use of any building, structure or other protected enclosure in which goods, materials or agricultural products are or may be stored.
- LLLL. **"Wellhead"** means the structural element of a constructed water well, which is the source of a groundwater supply system.
- MMMM. **"Zone Map"** is a map of the Village of Bosque Farms that delineates the Zone District boundaries within the Village Boundaries.

## **10-1-5 GENERAL REGULATIONS.**

- A. Access to Structures.** All structures shall be located on lots or parcels of land such that safe and convenient access is provided for servicing, fire protection, and any required off-street parking or loading.
- B. Agricultural Activities** are permitted in A-R, R-1 & R-1A Zone Districts only, provided that:
1. Confinement areas for livestock and fowl shall be constructed and maintained to discourage the concentration and breeding of insects and rodents which are detrimental to human health;
  2. Livestock and fowl manure and soiled bedding shall not be allowed to accumulate in amounts that offend or cause a noxious odor. Such material shall be removed within ten (10) days of Official Notification from the Village of Bosque Farms;
  3. Temporary on-site storage of animal waste shall be designed to prevent ground-water or surface water contamination; and
  4. Surface water runoff shall be contained on site and controlled to avoid overflow into irrigation ditches and drains and surrounding property.
  5. The Village of Bosque Farms adopts Article 9 Sections 47-9-1 through 47-9-7 NMSA 1978, "Right to Farm Act" as an Ordinance of the Village.
- C. Building and Structure Height.** No building or structure shall exceed twenty-six (26) feet in height from the Base Flood Elevation plus six (6) inches of freeboard. This height limitation shall not apply to silos, water tanks, wind generators, antennas, solar collectors, flagpoles, and other such accessory objects, excluding signs.
- D. Building and Structure Setback.** All buildings and structures shall be placed on a lot in accordance with the following setback requirements:
1. There shall be a front setback of thirty (30) feet and a side setback of ten (10) feet on all lots.

2. There shall be a rear setback of ten (10) feet on all lots with the exception as noted below in 10-1-5.D.4 of this Ordinance;
3. An accessory building shall not be placed within any front setback area; and
4. An accessory building shall not be placed within any side or rear setback area except when the lot line borders a vehicle accessible irrigation ditch, roadway or utility easement, in which case, the accessory building may be placed on the lot line; and
5. Walls, fences and signs are exempt from all setback regulations provided they are not placed within seven (7) feet of Bosque Farms Boulevard (NMSH 47) and they do not obstruct the required vision clearance at all roadway access points, as per Section 10-1-5.O. of this Ordinance.

**E. Development.** For any new development, new construction or substantial improvement a development permit shall be obtained from the Flood Plain Administrator as per Section 11-1-5 and 11-1-14.C. of the Flood Hazard Prevention Ordinance.

**F. Exterior Lighting Requirements.** Exterior lighting shall be controlled to avoid spillover of light and glare onto neighboring properties, operators of motor vehicles, or pedestrians in the proximity of the light source. Furthermore, in order to preserve and enhance the community's natural resource of dark skies, all outdoor night lighting fixtures shall be effectively shielded to prevent direct or reflected light into the sky.

**G. Fence.** All fences shall be durable, properly maintained and not detrimental to contiguous property. A solid fence shall be required as specified in this Ordinance.

1. Fences shall not cause a nuisance, fire hazard, or dangerous condition that may affect public safety.
2. For purposes of this Ordinance, a solid fence shall not be composed of metal (except as described in section 10-1-5.G.6.) exposed tires, doors, or other materials deemed unsafe or detrimental to adjoining property by the Commission.
3. For purposes of this Ordinance, visual barrier fencing is not acceptable where a solid fence is required in a commercial zone.
4. The height of a fence shall be measured from the natural ground level or the base of the fence, whichever is appropriate.
5. No visual barrier or solid fence shall exceed four (4) feet in height in the front setback area. No fence shall exceed six (6) feet in the front setback area.
6. Ribbed metal panels are allowable within the Village with a Development Review Permit (as per Section 10-1-18.A. of this Ordinance) approval from the Planning & Zoning Officer/Administrator with the following conditions:
  - a. As fencing material if classified as ribbed type seam type with a minimum thickness of 26 (twenty-six) gauge and a factory applied coating of paint or epoxy.
  - b. Metal panels are allowable provide that the panels meet the following criteria:
    - i. "Ribbed" means a raised line in the flat portion of a metal panel that gives added strength and minimizes that appearance of oil canning.

- ii. Panels as noted above shall not exceed six (6) feet in height within the rear or side setback of a lot.
  - iii. There shall not be any panels within the front setback of a lot.
  - iv. Panels will meet the Vision Clearance requirements in Section 10-1-5.O. of this Ordinance.
- c. Galvanized Steel Panel Fences are not allowed.
  - d. Fencing over six (6) feet in height shall be engineered in conformity with the regulations of New Mexico Construction Industries and approved by New Mexico Construction Industries Division.

**H. Garage or Yard Sale** is permitted for no more than three (3) consecutive days and not more than four (4) sales per calendar year.

**I. Hobby Kennel** in A-R, R-1 and R-1A Zone Districts provided that:

1. Kenneled animals shall be retained in a manner that prevents escape of enclosed animals or entry of other animals;
2. Kennels shall be designed to ensure safe, healthy, and sanitary conditions for animals on premises;
3. Kennels shall be maintained to discourage the concentration and breeding of insects and rodents, which are detrimental to human health;
4. Kennels shall be designed to retain surface water. Discharges shall be retained on site; and
5. Animal waste shall not be allowed to accumulate in amounts that offend or cause a noxious odor, such material shall be removed within ten (10) days of Official Notification from the Village of Bosque Farms.
6. Temporary on site storage of animal waste shall be designed to prevent ground water or surface water contamination.

**J. Minimum Lot Sizes and Open Space Requirement.** The purpose of minimum lot sizes and open space requirements are to protect and preserve the established low density rural character of the Zone Districts of the Village, to secure a low density of future residential development, and to minimize impervious surfaces which increase storm water runoff that may result in flooding or water pollution. Open space shall be unoccupied by structures as defined by this Ordinance.

1. **R-1 and R-1A.** Lot size shall be a minimum of three-quarters of one acre (32,670 square feet), having a minimum frontage of forty (40) feet, and no less than sixty (60) percent of the land shall be permeable open space.
2. **A-R.** Lot size shall be a minimum of two (2) acres (87,120 square feet), and with a residential usage shall have a minimum frontage of one hundred (100) feet, and no less than sixty (60) percent of the land shall be impervious open space.
3. **C-1.** Lot size shall be a minimum of one quarter of one acre (10,890 square feet) and meet the following requirements:

- a. Development is connected to the Village water and wastewater systems;
- b. There shall be adequate storm-water retention as specified in Section 10-1-5.N. of this Ordinance;
- c. There shall be adequate off street parking as specified in Section 10-1-19 of this Ordinance;
- d. There shall be no adverse impact created upon contiguous properties;
- e. In such cases where both water and wastewater system connections are not established, the minimum lot size shall be three-quarters of one (1) acre (32,670 square feet) with on-site storm-water retention;
- f. Site development plans are required for all new development in this Zone District; and
- g. There shall be adequate legal access, which shall require a New Mexico Department of Transportation Access Permit for development on Bosque Farms Boulevard (NMSH 47).

**K. Mobile Home/Manufactured Home Installation.**

- 1. All Mobile Homes and Manufactured Housing shall be installed in accordance with regulations promulgated by the Manufactured Housing Act of New Mexico (60-14-1 et. seq. NMSA 1978), and with regulations made pursuant thereto relating to installation and ground anchors;
- 2. All mobile homes and manufactured housing in the R-1A Zone District shall be placed on a permanent and continuous frost-protected perimeter as regulated by the Manufactured Housing Division and shall be compatible and harmonious with existing structures in the vicinity;
- 3. Mobile Homes or Manufactured Housing installed on any premises in Mobile Home Parks, or as a temporary dwelling unit during construction of a permanent dwelling unit, or as a rental property in an R-1A zone, or as temporary accessory living quarters, as regulated under the Conditional Use Permit procedures of this Ordinance, are not required to be placed on a perimeter foundations but shall provide skirting of durable materials and shall be stabilized and anchored in accordance with State Laws; and
  - a. On such occasions as are permitted under this Ordinance for the habitation of a temporary Mobile Home/Manufactured Home, the owner of the property on which the temporary Mobile Home/Manufactured Home is placed shall either deposit the sum of \$2,500 (two thousand five hundred dollars) with the Village Treasurer or post a bond in the equivalent amount made payable to the Village of Bosque Farms,
  - b. In the event that the temporary Mobile Home/Manufactured Home is not removed from the property at the time specified in this Ordinance, said deposit or bond shall be forfeited as liquidated damages to the Village of Bosque Farms.
  - c. The Village Planning & Zoning Administrator/Officer is hereby authorized to use any forfeited funds to remove the temporary Mobile Home/Manufactured Home from the property consistent with the terms of this Ordinance. Any sums remaining after said removal costs have been paid shall revert to the Village.

- d. The Village Planning & Zoning Administrator/Officer is authorized, in addition to forfeiture of the bond or deposit, charge additional fees for the removal and storage of the Mobile Home/Manufactured Home as is appropriate.
- 4. Mobile Homes or Manufactured Housing installed on a rented property or as Conditional Use Permits shall be installed and anchored to adequate foundation in accordance with Village's Flood Damage Prevention Ordinance Section 11-1-5.B.4.c.ii.; and
- 5. All Mobile Homes or Manufactured Housing shall obtain a Development Review and Mobile Home Permit from the Planning & Zoning Administrator/Officer/Officer. To obtain a Mobile Home/Manufactured Housing Permit the following information shall be submitted:
  - a. A legal description of the property;
  - b. A plat map of the property;
  - c. A site plan showing where the Mobile Home or Manufactured Home will be placed on the property (showing setbacks); and
  - d. A copy of the purchase agreement, registration or title of the Mobile Home or Manufactured Home.
  - e. All Mobile Homes or Manufactured Home shall be skirted within 90 (ninety) days from the date of inspection and shall remain skirted.

**L. Recreational Vehicle Storage.** On any lot in residential use, the storage of such as but not limited to a boat, pick-up camper shell, travel trailer, or other recreational vehicle is allowed provided:

- 1. It is not used as additional living quarters for more than sixty (60) days per year for an occasional guest. The property owner will notify the Planning & Zoning Administrator/Officer when guests will be staying more than fourteen (14) consecutive days;
- 2. It does not have a permanent connection to utilities;
- 3. It is not parked or stored within ten (10) feet of any roadway, right-of-way or multi-use path; and
- 4. Such recreational vehicle shall be stored on private property.

**M. Refuse Disposal.** All persons owning or occupying lands within the Village of Bosque Farms shall be responsible for the sanitary conditions of their premises. No person shall permit or cause the accumulation of refuse, garbage, trash, or other materials which may become hazardous to public health or safety, or which obstructs traffic, drainage, or access to structures. Refuse disposal shall be in accordance with Chapter 9-1, Health and Sanitation, Bosque Farms Village Code.

**N. Storm Water Drainage.** It is the responsibility of any owner of real property located in the Village of Bosque Farms to acceptably handle direct rainfall and storm water runoff as it flows onto the property. Acceptable handling of direct rainfall and storm water does not include pumping the water onto any adjacent roadway or right-of-way. Site design shall ensure that storm water runoff will not adversely affect neighboring properties. Methods used to determine storm water flow rates and storage requirements shall be taken from reputable sources such as the Technical Release 55 (TR-55, 1986 Edition) of the USDA Natural Resource

Conservation Service. The design frequency storm shall be for a 10-year/6 hour frequency flood rate. All substantially improved or developed lots shall be graded to retain localized storm water on site.

- O. Vision Clearance.** At all roadway intersections, or any entrance to property located adjacent to Bosque Farms Boulevard (NMSH 47), no obstructions to view shall be placed or maintained between three (3) feet and eight (8) feet above the roadway level in a triangular space at the roadway corner on a corner lot. Such triangular space shall be bounded by the roadway property lines and a diagonal line connecting points twenty-five (25) feet distance from the intersection of the roadway property lines.
- P. Water and Wastewater Requirements.** All development within the Village of Bosque Farms shall be in compliance with applicable regulations established by, Village Ordinances, New Mexico State Building Codes, The New Mexico Environment Department (concerning water and wastewater systems), and by the New Mexico State Engineer's Office (concerning water systems).
- Q. Flood Plain Compliance.** All applicable FEMA and Village Flood Damage Prevention Ordinance Section 11-1 shall be adhered to in any determination of this Ordinance.
- R. Accessory Structures.**
1. Units, vehicles, and/or containers which were not originally intended for use as accessory structures shall not be permitted as permanent structures in A-R, R1 or R1A zone districts. This type of unit includes but is not limited to: semi-trailer, panel truck bodies, railroad cars, buses, mobile homes, and other such units. Any shipping containers and portable shipping units shall have all logos and other identifying information removed or covered.
  2. Portable storage units and shipping containers designed for temporary storage and/or movement of stored items shall be allowed in A-R, R1 or R1A zone districts for up to ninety (90) days with an approved permit from the Planning & Zoning Administrator/Officer. A single thirty (30) day extension may be granted by the Planning & Zoning Administrator/Officer.
  3. Portable, storage units and cargo hauling vehicles shall be allowed as permanent storage structures in the C-1 zone district. Any cargo hauling vehicle used as a permanent storage structure shall have all logos and other identifying information removed or covered unless the information is specific to the business using the structure.

## **10-1-6 ZONE DISTRICT BOUNDARIES.**

- A. Districts.** In order to carry out the provision of this Ordinance, the Village of Bosque Farms is hereby divided into Zone Districts, as named and described in the following Sections. The regulations prescribed in this Ordinance shall apply within the corporate limits of the Village of Bosque Farms.
- B. Zone Map.** The boundaries of said Zone Districts are hereby established as shown on the Bosque Farms Zone Map, which shall be made a part of this Ordinance as is fully described herein. The Village of Bosque Farms Zone Map Boundaries and Zone Districts is hereby incorporated and adopted in this Ordinance as the Official Village of Bosque Farms Zone Map.
- C. Interpretation.** Where due to the scale, lack of detail, or illegibility of the official Bosque Farms Zone Map there is any uncertainty, contradiction, or conflict as to the intended location of any

Zone District boundaries shown therein, interpretations concerning the exact location of Zone District boundary lines shall be determined by the Commission upon written request. Contiguous Zone Districts along frontage of a public right-of-way shall automatically extend to the centerline upon vacation from public use of said right-of-way.

**D. Multiple-Zoned Lots.** Circumstances may justify the need to designate more than one zone on a single lot. In such cases, zone boundaries within a multiple-zoned lot shall be more fully described in the Bosque Farms Zone Map by showing any necessary dimensions of zones in relation to existing property lines.

1. Each use shall meet minimum standards in each zone designated on the lot.
2. The Commission or Governing Body may require additional conditions for a Conditional Use Permit or for a Special Use Permit.
3. The Governing Body shall make the final decision upon recommendation from the Commission.

## **10-1-7 ESTABLISHMENT OF ZONE DISTRICTS.**

For the purpose of this Ordinance, the following Zone Districts are hereby established:

A-R	Agricultural/Residential Zone
R-1	Conventional Single-Family Residential Zone
R-1A	Mixed Single-Family/Mobile Home Residential Zone
C-1	Commercial Zone
WPOZ	Wellhead Protection Overlay Zone

## **10-1-8 A-R AGRICULTURAL/RESIDENTIAL ZONE.**

**A. Intent.** The purpose of this Zone District is to maintain agricultural and related activities, and to provide for low-density residential uses that are conducive to a rural atmosphere.

**B. Permissive Uses.** Any of the following uses are permissive in this Zone District:

1. Accessory uses and structures;
2. Agricultural activities, including the cultivation and harvesting of croplands, and the raising and management of livestock and fowl in accordance with Section 10-1-5.B. of this Ordinance;
3. Hobby Kennels in accordance with Section 10-1-5.I. of this Ordinance;
4. One conventional dwelling unit per lot; and
5. One temporary stand for the display and sale of agricultural products may be erected for a period of not more than ninety (90) days per year and shall not exceed more than four hundred (400) square feet of gross floor area.

**C. Conditional Uses.** Conditional Uses are governed by Section 10-1-13 of this Ordinance. The following uses shall be allowed in this Zone District only upon permit granted by the Commission:

### **1. Conditional Use Permits.**

- a. Accessory Living Quarters.

- b. Mobile Home/Manufactured Home provided it meets current installation requirements, or recreational vehicle as a Conditional Use when used as temporary dwelling unit during construction of a standard site-built dwelling unit or on-site assembly of a modular dwelling unit in accordance with Section 10-1-13, 10-1-5.K. of this Ordinance; and
  - i. A Development Review/Building Permit shall be obtained within thirty (30) days following issuance of the Conditional Use Permit.
  - ii. Active and continuous construction shall begin within ninety (90) days following issuance of a Conditional Use Permit.
  - iii. The Mobile Home/Manufactured Home shall be removed within ten (10) days of the expiration of the Conditional Use Permit.
  - iiii. The recreational vehicle shall no longer be used as a residence after expiration of the Conditional Use Permit.
- c. Additional dwelling units for occupancy by employees or persons related to the residing family on the premises who are involved in any agricultural activities on the premises. In no case will such additional dwelling units be used as rental units for persons not associated with the agricultural activities on the premises.
- d. Bed and Breakfast Inn in accordance with Section 10-1-13.M. of this Ordinance;
- e. Commercial greenhouses, nurseries, landscaping businesses.
- f. Commercial stable, riding school and livestock sales.
- g. Family day care home as regulated by the applicable New Mexico State Agency.
- h. Home Occupations in accordance with Section 10-1-13.L of this Ordinance shall require approval from either the Planning & Zoning Administrator/Officer or the Commission.
- i. The processing packaging and sales of goods from agricultural products and/or agricultural by-products.
- j. Winery.

**D. Special Use Permits.** A Special Use Permit shall be authorized and established as per Section 10-1-14. of this Ordinance only for the following uses as designated by the Governing Body:

- 1. Wireless Cell Phone Tower provided:
  - a. Wherever practical, co-location of equipment for use of more than one (1) wireless communication provider on a single site;
  - b. The applicant shall provide information for the reason that they cannot co-locate on an existing tower within Valencia County;
  - c. Property shall be enclosed within a solid fence at least six (6) feet high as defined in Section 10-1-4.XXX. of this Ordinance;
  - d. Setbacks shall be at one (1) to one (1) foot setback for every foot of tower height from the boundary of the cell phone tower;

- e. Color will be a light tone or color to minimize visual impact;
  - f. Owners of a wireless facility shall file annually a declaration as to the continuing use. Failure to do so shall be determined to mean the facility is no longer in use;
  - g. Unused towers and associated facilities shall be removed within 180 (one-hundred-eighty) days of cessation unless an extension is approved. If the tower is not removed within 180 (one-hundred-eighty) days the tower and facilities shall be removed by the Village and associated costs shall be assessed against the company and/or property owner;
  - h. Towers built in the flood plain shall provide an environmental assessment;
  - i. Towers shall have FCC approval prior to being built;
  - j. The maximum height of the tower shall be 120 (one-hundred-twenty) feet;
  - k. Property security shall be provided;
  - l. Any cell phone tower shall incorporate sufficient landscaping as a screening device at the base of the tower and associated structures, subject to the review and approval of the Planning & Zoning Commission. The total lot shall be maintained and kept free of weeds and debris.
  - m. These provisions shall not apply to Ham radio towers.
2. Mobile Home/Manufactured Home Park, provided:
- a. All lots in a mobile home/manufactured home park shall be connected to Village Sewer and Water facilities. A mobile home/manufactured home park shall present evidence that adequate water and sewer service for each dwelling unit is provided in compliance with the requirements of the New Mexico Environment Department and in conformance with any applicable procedures and standards for centralized water as more specifically set forth within the provisions of the Water Service Ordinance (Section 9-2-1 of the Code of the Village of Bosque Farms), and the Sewer Service Ordinance (Section 9-3 of the Code of the Village of Bosque Farms);
  - b. The minimum park size shall be at least five (5) acres (217,800 square feet), but in no case more than twelve (12) acres (522,270 square feet);
  - c. Maximum gross density shall be one mobile home/manufactured home per three-quarters of an acre (32,670 square feet);
  - d. No mobile home/manufactured home shall be located within forty (40) feet of any other. Any mobile home/manufactured home shall be at least thirty (30) feet from the right-of-way line of any street and at least ten (10) feet from any property line of the mobile home/manufactured home park;
  - e. All roadways shall be at least forty (40) feet wide, and shall be paved per Village specifications;

- f. Perimeter areas adjacent to public roadways shall be landscaped with at least one (1) fifteen (15) gallon tree for each fifty (50) feet of frontage along the roadway; and
  - g. The park shall be continually maintained by the landowner to provide a clean and healthy condition for residents.
- 3. Planned Residential Development subject to the following provisions provided:
  - a. All lots in a Planned Residential Development shall be connected to Village Sewer and Water facilities. A Planned Residential Development shall present evidence that adequate water and sewer service for each dwelling unit is provided in compliance with the requirements of the New Mexico Environment Department and in conformance with any applicable procedure and standards for centralized water as more specifically set forth within the provisions of the Water Service Ordinance (section 9-2-1 of the Code of the Village of Bosque Farms), and the Sewer Service Ordinance (Section 9-3 of the Code of the Village of Bosque Farms);
  - b. Development shall be residential land use;
  - c. Buildings shall be no greater than twenty-six (26) feet in height;
  - d. Elevation drawings of all buildings shall be included with the development plans;
  - e. The maximum gross density of the total development shall be one (1) building per three-quarters of an acre lot (32,670 square feet), or one-half of one acre lot (21,780 square feet), for lots platted prior to 1973, and shall not exceed 2 (two) dwelling units per building;
  - f. A portion of the land within the total development shall be set aside as open space for the common use of the residents of the development with the following assurances:
    - 1. The ownership of the common area is clearly defined. With appropriate covenants forbidding partition;
    - 2. Partition for future sale and development is not allowed; and
    - 3. The responsibility for improvements and maintenance of the common area is clearly defined, and a method is provided for funding such improvements and maintenance of the common area.
  - g. It shall be strongly encouraged that all perimeter areas adjacent to public roadways shall be landscaped with at least one (1) fifteen (15) gallon tree for each twenty-five (25) feet of frontage along the roadway;
  - h. For those Planned Residential Developments that are nine (9) acres or larger, all common roadways into the total development shall be at least forty (40) feet in width, and shall be paved per Village specifications;
  - i. The total development shall be graded to retain localized storm water on site; and
  - j. There shall be at least twenty (20) feet separation between buildings.

4. Animal Sanctuary/Shelter in accordance with the following regulations:
  - a. Section 10-1-5.B. of this Ordinance (Agricultural Activities);
  - b. Section 10-1-5.E. of this Ordinance (Development);
  - c. Section 10-1-5.I. of this Ordinance (Hobby Kennels); and
  - d. Section 10-1-18 of this Ordinance (Development Review).
5. Residential Care/Assisted Living Facility.

**E. Minimum Lot Size, Density and Open Space Requirements**

1. Residential Density shall not exceed one conventional dwelling unit per lot;
2. Minimum lots size shall be two (2) acres (87,120 square feet); and
3. All lots shall be a minimum of 60% (sixty percent) land open space and shall be in accordance with Section 10-1-5 regulations of this Ordinance.

**10-1-9 R-1 CONVENTIONAL SINGLE-FAMILY RESIDENTIAL ZONE.**

**A. Intent.** The purpose of this Zone District is to provide for the development of rural residential neighborhoods which are compatible to the rural residential character of the area.

**B. Permissive Uses.** Any of the following permissive uses are allowed in this Zone District:

1. Accessory Uses and structures;
2. Hobby Kennel in accordance with Section 10-1-5.I. of this Ordinance;
3. One conventional dwelling unit per lot; and
4. Agricultural activities, including the cultivation and harvesting of croplands, and the raising and management of livestock and fowl in accordance with Section 10-1-5.B. of this Ordinance.

**C. Conditional Uses.** Conditional Uses are governed by Section 10-1-13 of this Ordinance. The following uses shall be allowed in this Zone District only upon permit granted by the Commission:

**1. Conditional Use Permits.**

- a. Accessory Living Quarters.
- b. Mobile Home/Manufactured Home, provided it meets current installation requirements, or recreational vehicle as a Conditional Use when used as temporary dwelling unit during construction of a standard site-built dwelling unit or on-site assembly of a modular dwelling unit, in accordance with Section 10-1-5.K., 10-1-18.B. of this Ordinance; and
  - i. A Development Review/Building Permit shall be obtained within thirty (30) days following issuance of the Conditional Use Permit.
  - ii. Active and continuous construction shall begin within ninety (90) days

following issuance of the Conditional Use Permit.

iii. The Mobile Home/Manufactured Home shall be removed at the expiration of the Conditional Use Permit.

iiii. The recreational vehicle shall no longer be used as a residence after expiration of the Conditional Use Permit.

c. Bed and Breakfast Inn in accordance with Section 10-1-13.M. of this Ordinance;

d. Commercial Riding Stable or Riding School provided the lot is a minimum of two (2) acres (87,120 square feet) in size.

e. Family Day Care Home as regulated by the applicable New Mexico State Agency.

f. Home Occupations in accordance with Section 10-1-13.L. of this Ordinance shall require approval from either the Planning & Zoning Administrator/Officer or the Commission;

g. The processing, packaging, and sales of goods from agricultural products and/or agricultural by-products.

**D. Special Use Permits.** A Special Use Permit shall be authorized and established as per Section 10-1-14 of this Ordinance only for the following uses as designated by the Governing Body:

1. Wireless Cell Phone Tower as per Section 10-1-8.D.1. of this Ordinance.

2. Mobile Home/Manufactured Home Park as per 10-1-8.D.2. of this Ordinance.

3. Planned Residential Development as per Section 10-1-8.D.3. of this Ordinance.

4. Animal Sanctuary/Shelter as per Section 10-1-8.D.4. of this Ordinance.

5. Residential Care/Assisted Living Facility as per Section 10-1-8.D.5. of this Ordinance.

**E. Minimum Lot Sizes, Density and Open Space Requirements**

1. Density shall be limited to one conventional dwelling unit per lot;

2. Minimum lot size shall be three quarters of one acre (32,670 square feet); and

3. All lots shall be a minimum of 60% (sixty percent) land open space and shall be in accordance with Section 10-1-5.J. regulations of this Ordinance;

## **10-1-10 R-1A MIXED SINGLE-FAMILY/MOBILE HOME RESIDENTIAL ZONE.**

**A. Intent.** The purpose of this Zone District is to provide for the development of rural residential neighborhoods consisting of a mixture of detached dwelling units including conventional, modular, manufactured or mobile home dwelling units provided they are installed in accordance with Section 10-1-5.K of this Ordinance; and applicable flood plain ordinances.

**B. Permissive Uses.** Any of the following permissive uses are allowed in this Zone District:

1. All uses which are permissive in the R-1 Zone District; and
2. One Mobile Home/Manufactured Home unit per lot, installed in accordance with Section 10-1-5.K. of this Ordinance; Nothing in this subsection permits more than one (1) conventional dwelling unit per lot.

**C. Conditional Uses.** Conditional Uses as outlined in Section 10-1-14 of this Ordinance. The following uses shall be allowed in this Zone District only upon permit granted by the Commission:

1. All uses which are conditional in the R-1 Zone District except Bed and Breakfast Inn.

**D. Special Use Permits.** A Special Use Permit shall be authorized and established as per Section 10-1-14 of this Ordinance only for the following uses as designated by the Governing Body:

1. Wireless Cell Phone Tower as per Section 10-1-8.D.1. of this Ordinance.
2. Mobile Home/Manufactured Home Park as per 10-1-8.D.2. of this Ordinance.
3. Planned Residential Development as per Section 10-1-8.D.3. of this Ordinance.
4. Animal Sanctuary/Shelter as per Section 10-1-8.D.4. of this Ordinance.
5. Residential Care/Assisted Living Facility as per Section 10-1-8.D.5. of this Ordinance.

**E. Minimum Lot Sizes, Density and Open Space Requirement.**

1. Density shall be limited to one detached single-family dwelling unit per lot;
2. Minimum lot size shall be three quarters of one acre (32,670 square feet); and
3. All lots shall be a minimum of 60% (sixty percent) land open space and shall be in accordance with Section 10-1-5.J. regulations of this Ordinance.

## **10-1-11 C-1 COMMERCIAL ZONE.**

**A. Intent.** The purpose of this Zone District is to promote and enhance existing and new commercial development including retailing, financial, and personal services.

**B. Designation of Commercial Zone.** The designation of the Commercial Zone is hereby established under the following criteria:

1. A Commercial Zone shall be delineated as geographic area as per the Official Zoning Map of the Village of Bosque Farms dated August 28, 2006.
2. The Governing Body shall make the final determination, upon recommendation by the Commission, regarding whether any particular property is within or outside of any Commercial Zone.
3. The Village Zone Map shall be made available for public inspection at the Village Office.
4. As of August 5, 2015 all C-1 regulations shall take effect no later than January 5, 2016; and all non-compliant uses, including any uses holding a certificate of non-compliance, shall cease unless brought into compliance with these regulations. A possible extension of up to six (6)

months may be granted at the Planning and Zoning Commissions discretion upon application with the Planning and Zoning Administrator/Officer.

**C. Application.**

1. A Site Development Plan (SDP) shall be required for all new or redeveloped land use in this Zone District. At a minimum, the SDP shall include the following:
  - a. A written statement explaining the purpose and intent of the development, and a development phase schedule, if appropriate;
  - b. Boundaries and topography of the property to be developed;
  - c. A site map, of sufficient size and scale, showing the proposed location, type use and size of all structures, setbacks, signs, lighting, on-site parking and loading areas, as required in Section 10-1-18 of this Ordinance, on-site storm water retention facilities, landscaping, fencing, driveways, traffic and pedestrian circulation routes, and emergency vehicle access. Other information to show compliance with Village Ordinances may be required;
  - d. Details of the engineering design of the on-site parking and on-site storm water retention facilities shall be included in the SDP;
  - e. Delineation of proposed dedications and easements for public right-of-way;
  - f. An area map showing the location, type, use and size of all structures on adjacent properties within two-hundred (200) feet of the proposed development;
  - g. Written documentation showing that the New Mexico Department of Transportation has been notified of the new use if accessing a New Mexico State Highway and their findings.
  - h. Deviation or changes from the site plan shall be reviewed by the Planning & Zoning Administrator/Officer for approval before the changes are implemented.

**D. Permissive Uses.** Any of the following permissive uses are allowed in this Zone District:

1. Banking and Financial Services.
2. Business and Personal Services.
3. Commercial Kennel, Veterinary Hospital, Animal Grooming Parlor, or Pet Sales Store provided that:
  - a. All animals shall be retained in a manner that prevents escape of enclosed animals or entry of other animals;
  - b. Animal quarters shall be designed to ensure safe, healthy, sanitary conditions for animals on premises;
  - c. Animal quarters shall be maintained to discourage concentration and breeding of insects and rodents;
  - d. Surface water discharge contamination shall be retained on site;

- e. Animal waste shall not be allowed to accumulate in amounts that offend or cause a noxious odor, such material shall be removed within ten (10) days of Official Notification from the Village of Bosque Farms;
  - f. Temporary on site storage of animal waste shall be designed to prevent ground water or surface water contamination; and
  - g. A solid fence, as defined in Section 10-1-4.XXX. of this Ordinance to provide a visual barrier at least six (6) feet high shall be erected and maintained between the activity and all contiguous residential Zone Districts.
4. Construction and Maintenance Contractors and Building Trades, including associated storage, equipment sales and services, provided that:
- a. A solid fence as defined in Section 10-1-5.XXX. of this Ordinance, to provide a visual barrier at least six (6) feet high shall be maintained between the activity and all contiguous Residential Zone Districts.
5. Conventional Dwelling Unit provided that:
- a. Complies with 10-1-4.U. of this Ordinance;
  - b. The minimum lot size shall be three-quarters of one acre (32,670 square feet);
  - c. Raising and management of livestock is excluded;
  - d. The dwelling set backs shall comply with the regulations as set forth in Section 10-1-5.D. of this Ordinance;
  - e. Nothing in this Section shall prohibit having both a dwelling and a business on the same lot, or both a business and a dwelling in the same building on the lot; and
  - f. Only one (1) dwelling unit is allowed per lot.
6. Food Processing Activities, in a building under 3,600 (thirty-six hundred) square feet, not including slaughterhouse, provided all state regulations and licensing information is provided to the Village of Bosque Farms Planning & Zoning Administrator/Officer.
7. Fireworks Sales allowable in accordance with Section 5-5, Fireworks Sales, Bosque Farms Code.
8. Galleries and Museums.
9. Gas Stations and other Retailers of Bulk Petroleum Products provided that:
- g. Dry clean-up of spilled gas and other petroleum products is provided for; and
  - h. Spill Prevention Counter Measure Control Plan as regulated by EPA & NMED.
10. General and Professional Offices.
11. Indoor Amusement Facilities provided Village Ordinances for Off Street Parking and Noise regulations are followed.
12. Retail Business Establishment.

13. Pasture Lands provided that it is in accordance with Section 10-1-5 of this Ordinance.
14. Self-Storage Mini-Warehouses provided that:
  - a. All storage is within completely enclosed single-story structure not to exceed twelve (12) feet in height;
  - b. All stored items shall be enclosed within the structure;
  - c. A solid fence to provide a visual barrier at least six (6) feet high as defined in Section 10-1-4.XXX. of this Ordinance, shall be erected and maintained between the activity and any contiguous residential Zone Districts; and
  - d. The site shall not exceed two (2) acres (87,120 square feet) in size.

**E. Conditional Uses.** Conditional Uses as outlined in Section 10-1-13 of this Ordinance. All permissive Commercial uses shall also be permissible in conjunction with an approved Conditional Use. Additional reasonable conditions may be required by the Commission as the situation warrants. The following uses shall be allowed in this Zone District only upon permit granted by the Commission:

**1. Conditional Use Permits.**

- a. Amusement parks, carnival, or circus, as provided in Section 10-1-13 of this Ordinance.
- b. Caretaker dwelling unit as provided in Section 10-1-13 of this Ordinance provided there is no other conventional dwelling unit on the property.
- c. Mobile Home/Manufactured Home provided it meets current installation requirements, or recreational vehicle as a Conditional Use when used as temporary dwelling unit during construction of a standard site-built dwelling unit or on-site assembly of a modular dwelling unit, in accordance with Section 10-1-5.K. and 10-1-5.L. of this Ordinance and:
  1. A Development Review/Building Permit shall be obtained within thirty (30) days following issuance of the Conditional Use Permit;
  2. Active and continuous construction shall begin within ninety (90) days following issuance of the Conditional Use Permit;
  3. The Mobile Home/Manufactured Home shall be removed at the expiration of the Conditional Use Permit; and
  4. The recreational vehicle shall no longer be used as a residence after expiration of the Conditional Use Permit.
- d. Auction house or lot for the purpose of allowing regular public sales on a site designated for such use in which items of merchandise are sold to the highest bidder, excluding animals and/or livestock of any type or nature provided:
  1. Storage and/or display areas. Storage and/or display areas shall not occupy more than 40% (forty percent) of the lot where the auctions are to take place;
  2. Off-street Parking. There shall be at least one (1) off-street parking space per two hundred (200) square feet of sale/display and/or storage area on the lot. Off-street parking within a reasonable distance shall be permitted subject to approval of the Planning & Zoning Commission provided written guarantees are given that such off-

street parking shall continue to be available for the duration of the Conditional Use auction permit. Off-street parking and traffic areas shall be clearly designated and separated from the sales area so as not to create traffic or safety hazards as required by applicant's Safety Engineer or qualified expert and reviewed and approved by the Commission;

3. Ingress and Egress. Adequate and appropriate ingress and egress shall be provided from the lot and/or area where the auction is to take place; and
4. Storage, Display and Items to be auctioned. The storage and/or display of items to be auctioned shall be kept in an enclosed building or in an outside area with the construction of a solid fence on all sides to provide a visual barrier at least six (6) feet in height, as defined in Section 10-1-4.XXX. of this Ordinance. Any stored materials shall not be stacked or arranged above the height of the screen wall or fence. The said structure shall be erected and maintained between such storage/display area and contiguous residential lots or residential Zone District, to be approved by the Commission.

e. Flea markets, subject to the following regulations:

1. There shall be at least two (2) off-street parking spaces per rental stall on the premises;
2. The sale of animals is prohibited;
3. No merchandise intended for sale shall be stored on site after closing hours;
4. All tarps, tents, or sunshades shall be securely attached to prevent a safety hazard and shall be removed at daily closing time;
5. A site plan designed in accordance with the above requirements shall be submitted as part of the approval process;
6. A solid fence to provide a visual barrier at least six (6) feet high, as defined in Section 10-1-4.XXX of this ordinance shall be erected and maintained between the activity and any contiguous residential Zone Districts as per Section 10-1-5.G. of this Ordinance--; and
7. All food vendors shall have a separate Business License/Registration with the Village of Bosque Farms and show permit approval by New Mexico Environment Department.

f. Mobile Home/Manufactured Home Sales Lot is including but not limited to, the sale of new, used or consignment mobile/manufactured homes.

1. Separation requirements for display storage of mobile homes/manufactured homes shall be at least eight (8) feet from one another and at least ten (10) feet from all fencing to allow for safety access. There shall be no dead-end passageways and passageway will be a minimum of twenty (20) feet in width. Obstructions under any definition within passageways shall not be allowed (25-4.3.1 NFPA Special Provisions, 1994, Life Safety Code);
2. A solid fence to provide a visual barrier at least six (6) feet high as defined in Section 10-1-4.XXX of this ordinance shall be erected and maintained between the activity and any contiguous residential Zone Districts;

3. On site residential use is prohibited;
  4. On-site customer parking shall exist at a minimum of one (1) designated parking space per six (6) mobile homes/manufactured homes available for sale;
  5. Parking of semi-tractor trailer rigs used for moving or transporting mobile homes/manufactured homes shall be limited to two Semi-tractor trailer rigs per mobile homes/manufactured homes sales lot;
  6. Internal and external repair of mobile home/manufactured home units on site shall be limited to minor repair and no major structural repairs or scraping shall be allowed;
  7. A mobile home/manufactured home may be used as an office provided that it meets the requirements as set forth in Section 10-1-14 of this Ordinance; and
  8. The property shall be paved or surfaced with base course or gravel.
- g. Vehicle Sales/Leasing including but not limited to, the sale or leasing of new, used or consignment vehicles, recreational vehicles, trailers and agricultural equipment as defined in 10-1-5 of this Ordinance provided:
1. The lot provides one (1) designated parking space per six (6) vehicles available for sale on the lot;
  2. Each vehicle sales space shall require at a minimum the length and width of the vehicle plus a two (2) foot access isle around the perimeter of the vehicle;
  3. Minimum setbacks from all rights-of-way and property lines for all parked, displayed or stored vehicles shall be four (4) feet;
  4. Solid fence, to provide a visual barrier at least six (6) feet high as defined in Section 10-1-4.XXX. of this Ordinance, shall be maintained between the activity and contiguous residential zone districts;
  5. Service of vehicles on site shall be limited to light repair (See 10-1-4.GGGG.) Any other repairs shall be subject to the provisions of Section 10-1-11.C and 10-1-11.E.2.e of this Ordinance;
  6. The property shall be paved or surfaced with base course or gravel; and
  7. All vehicles must be operable within thirty (30) days of arrival.
- h. Vehicle Services and/or Commercial Garages, to include collision, paint and body shops (excluding Tire shops and Salvage or Scrap Facilities), provided that:
1. Any major repair work shall be conducted entirely within an enclosed building;
  2. Any minor repair work conducted outside of an enclosed building shall be on a concrete pad and shielded by a visual barrier from street view;
  3. A solid fence to provide a visual barrier at least six (6) feet high as defined in Section 10-1-4.XXX of this Ordinance, shall be erected and maintained between the activity and any contiguous Residential Zone Districts;
  4. Outdoor storage of not more than three (3) vehicles per enclosed service bay awaiting repair and/or delivery;

5. Provisions are made to adequately handle, contain and control all hazardous waste and shall meet all EPA Requirements;
  6. All parking areas for customers and vehicles awaiting service shall be paved or surfaced with base course or gravel;
  7. Inoperable Motor Vehicles (as defined under 10-1-5.NN. of this Ordinance) shall not remain on the premises for longer than 90 days unless proof of activity, including but not limited, to invoices dated within the preceding ten (10) days after the vehicle has been deemed inoperable or vehicle parts have been ordered and have not been received, will be grounds to grant an extension by the Planning & Zoning Administrator/Officer for an additional thirty (30) days. No more than two (2) such extensions shall be granted on any motor vehicle; and
  8. All miscellaneous materials and parts must be stored within an enclosed building.
- i. Processing and manufacturing activities, fabrication and assembly activities provided that:
1. Bulk storage of toxic substances or hazardous materials shall be above ground and contained in a manner approved by the Fire Department and current FEMA;
  2. All processing activities shall be carried out within a building and shall not produce off-site impacts, which would be disruptive to contiguous properties;
  3. No activity is conducted outside;
  4. Other conditions as may be required by the Commission; and
  5. No equipment or process shall be used which creates a nuisance such as noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses, off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in the line voltage off the premises;
- j. Tire Shops provided that:
1. All work conducted outside of an enclosed building shall be on a concrete pad and shielded by a visual barrier from street view;
  2. A solid fence to provide a visual barrier at least six (6) feet high as defined in Section 10-1-4.XXX. of this Ordinance, shall be erected and maintained between the activity and any contiguous Residential Zone Districts;
  3. All tires, including new, used and scrap tires, must be stored entirely within an enclosed building or accessory structure (see 10-1-5.R.3.);
  4. Display of tires shall be limited to not more than 4 sets (4 tires per set) of tires to be displayed outside of the building during hours of operation and must be brought back inside at the close of business;
  5. Owner/operator must provide the Village with a copy of a contact for licensed tire disposal with an approved tire disposal service through NM Environment department or show registration as a Scrap Tire Hauler if the generator will self-haul in accordance with Section 50 of the NM Recycling, Illegal Dumping and Scrap Tire Management Rule

(RIDSTMR) and be able to provide manifests as requested by the Planning and Zoning Administrator/Officer; and

6. The property shall be paved or surfaced with base course or gravel;
- k. Warehousing Operations provided the business is conducted entirely inside a building or within an area enclosed on all sides by a solid fence to provide a visual barrier at least six (6) feet high as defined in Section 10-1-4.XXX of this Ordinance provided:
  1. Bulk storage of toxic substances or hazardous materials shall be above ground and contained in a manner approved by the Fire Department and FEMA; and
  2. There shall be no off-site impacts that are disruptive to contiguous properties.

**F. Special Use Permits.** A Special Use Permit shall be authorized and established as per Section 10-1-14 of this Ordinance only for the following uses as designated by the Governing Body:

1. Wireless Cell Phone Tower as per Section 10-1-8.D.1. of this Ordinance.
2. Mobile Home/Manufactured Home Park as per 10-1-8.D.2. of this Ordinance.
3. Planned Residential Development as per Section 10-1-8.D.3. of this Ordinance.
4. Animal Sanctuary/Shelter as per Section 10-1-8.D.4. of this Ordinance.
5. Residential Care/Assisted Living Facility as per Section 10-1-8.D.5. of this Ordinance.
6. Fairgrounds, Baseball Park Complex, Stadium and Recreation Complex.
7. Food Processing, except slaughter house which requires an area of more than 3,600 (thirty-six-hundred) square feet.
8. Fuel Wholesalers and storage (gasoline, liquefied petroleum) provided that all facilities shall not be within four hundred (400) feet of any lot in residential use unless sufficient blast, explosion, or fire confinement structures are installed according to the appropriate State regulatory agencies.
9. Hospital, Sanitarium, and Residential Treatment Centers.
10. Manufacturing, Compounding, Processing Activities that require any work conducted outside, assembling or treatment of products made from raw or processed materials provided:
  - a. Compliance with current environmental pollution standards;
  - b. Bulk storage of toxic substances or hazardous materials shall be above ground and contained in a manner approved by the Fire Department and FEMA;
  - c. There shall be no off-site impacts that are disruptive to contiguous properties;
  - d. Other conditions as may be required by the Commission and/or Governing Body; and
  - e. No equipment or process shall be used which creates a nuisance such as noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses, off the premises. In the case of electrical interference, no equipment or

process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in the line voltage off the premises.

**G. Regulated Business.**

1. Application. Regulated Businesses shall apply on prescribed forms to the Planning & Zoning Administrator/Officer at least twenty (20) days prior to the Planning & Zoning Commission meeting date when the application will be considered. Each application for a Regulated Business shall be accompanied by a Site Development Plan as described in 10-1-11.C of this Ordinance. (See also 10-1-11.H) Submission of inaccurate information with an application is grounds for denial.
2. Preliminary Public Meeting. The Commission shall hold a public meeting at which there will be a hearing to evaluate the Regulated Business application and shall submit its recommendation in writing to the Governing Body. Notice of the public meeting shall be given in accordance with the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4. at least fifteen (15) days prior to said meeting.
3. Public Notification. The applicant shall post and maintain one or more signs on the premises, as provided and where instructed by the Planning & Zoning Administrator/Officer, at least fifteen (15) days prior to the date of the Commission and Governing Body meetings at which the application will be heard.
4. Commission Recommendation. All applications for a Regulated Business shall first be reviewed by the Commission who shall submit a written recommendation concerning the application to the Governing Body. If the Commission fails to make such a written recommendation to the Governing Body within forty-five (45) days after receipt thereof, then the Governing Body shall act upon said application without a recommendation by the Commission.
5. Final Public Hearing. The Governing Body shall conduct a public hearing at which all parties in interest and citizens shall have an opportunity to be heard. Notification of the time and place of the public hearing shall be given in accordance with the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4 at least fifteen (15) days prior to the hearing. The notice of public meeting published fifteen (15) days before the Commission meeting shall be considered sufficient notice if it also has included the time and place of the public hearing to be held by to the governing Body.

**H. Regulated Business Types:** The following uses shall be considered regulated businesses. Additional reasonable requirements may be required by the Commission or Governing Body as the situation warrants:

1. **"Adult Entertainment Establishment"** is including but not limited to adult bookstore, adult sex accessories/products or services, adult cabaret, adult photo amusement establishment, adult photo studio, adult theater, adult video arcade, adult body oil or lotion demonstration parlors, strip clubs or gentlemen's clubs.

a. No person under eighteen (18) years of age may enter the business even if they are accompanied by an adult.

b. All clerks/personnel shall be eighteen (18) years of age or older.

c. May not display any form of advertising for adult oriented products or services in view of public with the exception of any onsite sign that contains the name of a business for the purpose of identifying the business.

d. If the applicant is an individual, the Planning & Zoning Administrator/Officer shall obtain the current residence address of the applicant together with the applicant's social security number. If the applicant is a partnership, the applicant shall disclose the names of all partners. If the applicant is a corporation, the applicant shall disclose the state of incorporation, the date of incorporation, the name and address sufficient for service of process of the registered agent within New Mexico and of each officer and director of the corporation. Further, the Planning & Zoning Administrator/Officer shall obtain the social security number of each officer or director of the corporation, it being the intention of this provision that the social security number shall be utilized to assist in obtaining background information on the officers and directors of the corporation. If applicant is other than an individual, the applicant shall name a managing agent and provide that person's address and social security number. It shall be the responsibility of the applicant to pay any applicable fees on background check.

e. Evidence that the owner, registered agent, resident manager or any officer or director of any corporation has been convicted or pled guilty to any felony or misdemeanor involving a crime of moral turpitude including, but not limited to, sex offenses or violation of child pornography laws or other laws restricting or regulating the dissemination of adult oriented material within five (5) years preceding the date of this application will result in denial of the application.

2. **"Body Art/Modification Establishment"** is including but not limited to, tattoo shop/parlor, scarification shop/parlor and body piercing shop/parlor.

a. Prior to receiving initial and annual renewal of business license for a Body Art/Modification Establishment each business owner must provide evidence to the Planning & Zoning Administrator/Officer that the body art establishment successfully passed a state inspection pursuant to the Body Art Safe Practices Act during the preceding calendar year. In the event that the body art establishment has not been inspected by the state through no fault of the business owner, the owner may apply to the Village for a thirty (30) day extension of time allowing the business to operate temporarily until an inspection can be performed. If the body art establishment fails to successfully pass a state board inspection, the body art establishment shall suspend body art activities until it passes a re-inspection.

b. Administering body art on any person eighteen (18) years of age or under is prohibited.

c. Proof of age will be shown by a government-issued photo identification accompanied by at least one other government-issued document showing proof of age, such as a birth certificate.

3. **"Medical Cannabis Establishment"** is including but not limited to any facility, building, space, or grounds licensed for the production, possession, testing, manufacturing, or distribution of cannabis, concentrates, or cannabis-derived products. Such establishments must be compliant with NMAC Title 7, Chapter 34 Medical Use of Cannabis and all other current State and local regulations.

4. **"Smoke Shop"** is including but not limited to, head shop, hookah bar, hookah lounge, herbal/tobacco smoke shop or vapor dealer.

a. No person under eighteen (18) years of age may enter the business even if they are accompanied by an adult.

b. All clerks/personnel shall be eighteen (18) years of age or older.

- c. No products may be sold by means of self-service or vending machine assisted.
- d. May not display any form of advertising for tobacco products in visible locations with the exception of any onsite sign that contains the name of a business that lawfully sells tobacco products that have been placed at or upon the business premises for the purpose of identifying the business.
- e. Business shall not distribute free tobacco products or promotional items.
- f. Business shall not sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings.
- g. Must comply with all State and Federal laws and regulations.
- h. No smoking shall be permitted inside the shop.

5. **"Check Cashing/Pay Day Loan Establishment"** is including but not limited to, cash advance, pay day advance, pay day loans, title loans, check cashing establishments.

- a. Shall comply with all Federal and State regulations.
- b. May not display any form of advertising for loan or check cashing services in visible locations with the exception of any onsite sign that contains the name of a business that lawfully conducts loans or check cashing services that have been placed at or upon the business premises for the purpose of identifying the business.

## 6. **"Bail Bonds"**

- a. Shall comply with all Federal and State regulations.
- b. May not display any form of advertising bail bond services in visible locations with the exception of any onsite sign that contains the name of a business that lawfully conducts bail bond services that have been placed at or upon the business premises for the purpose of identifying the business.

## 7. **"Pawn Broker"**

- a. Shall comply with all Federal and State regulations.
- b. May not display any form of advertising for Pawn Broker services in visible locations with the exception of any onsite sign that contains the name of a business that lawfully conducts Pawn Broker services that have been placed at or upon the business premises for the purpose of identifying the business.

## 8. **"Fortune Tellers"**

- a. Shall comply with all Federal and State regulations.
- b. May not display any form of advertising for fortune telling services in visible locations with the exception of any onsite sign that contains the name of a business that lawfully conducts fortune telling services that have been placed at or upon the business premises for the purpose of identifying the business.

9. **"Metal Intake/Recycling Center"** is including but not limited to, recycle center, aluminum transfer, bottle exchange, scrap metal dealer.

- a. Site Fencing. A solid fence at least six (6) feet in height, as defined in Section 10-1-4.XXX. of this Ordinance, with exception to the front set back area being no taller than four (4) feet in height, shall be erected on all perimeters.
- b. Parking of semi-tractor trailer rigs used for moving or transporting materials shall be limited to two (2) units and must be stored out of public view.
- c. A Maximum of three (3) roll off storage bins will be allowed on the property and must be stored out of public view.
- d. Any and all salvage or scrap material will be unloaded on an appropriate concrete pad or the inside of the building and stored out of public view.
- e. Shall comply with all Federal and State requirements and regulations.

10. **"Salvage or Scrap Facility"** is including but not limited to, salvage yards, scrap yard, wrecking yard, junk yard, dismantlers, or any entity in the business of outdoor storage or deposit for storing, keeping, processing, buying or selling disused vehicles, disused machinery or other disused goods or materials for resale.

- a. All vehicle parking areas for customers and vehicles awaiting service shall be paved or surfaced with base course or gravel.

**I. Regulated Business Requirements:** Anti-Skid Row Regulations shall apply to all Regulated Businesses in an effort to disperse businesses evenly across the Village in order to avoid a high density area, or Skid Row effect. All Regulated Businesses shall comply with the distance requirements listed below:(See also 10-1-11.G.)

1. Shall be at a location no closer than one thousand (1,000) feet along Bosque Farms Blvd. from another Regulated Business.
2. Shall be at a location no closer than a one thousand (1,000) foot radius from a school property line ( universities, community colleges, high schools, junior high schools, elementary schools, nursery schools).
3. Shall be at a location no closer than a one thousand (1,000) foot radius from state-licensed child care centers and/or family day care facilities.
4. Shall be at a location no closer than a one thousand (1,000) foot radius from youth frequented locations including, but not limited to, religious institutions, public libraries, public parks, bowling alleys, electric-game centers, pool and billiard halls, laser-tag or paint ball facilities.
5. Shall have a three hundred (300) foot setback between any business structure (to include accessory structures) and any dwelling unit located on any lot zoned R-1, R-1A or A-R.
6. Shall pay a yearly Regulated Business Licensing Fee as per 5-1 Business Registration/License.

**J. Special Provisions.** The following provisions shall apply to all commercially zoned properties:

1. Any development plans with proposed infrastructure improvements such as streets, sidewalks, and water and sewer utilities shall be subject to the requirement for subdivision approval as set forth in the Village Land Subdivision Regulations, 10-2. In addition, any subdivision of land shall be subject to the provisions of 10-2 Village Land Subdivision Regulations.
2. Landscaping shall be strongly encouraged on all new and existing development in this Zone District. Visually attractive trees and shrubs should be placed along Bosque Farms Boulevard (NMSH 47) to enhance and soften the streetscape and landscaping is encouraged to be placed as buffers along the perimeter of the C-1 Zone district and contiguous residential zones.
3. No development shall divert or channel storm water runoff to contiguous properties. To the extent possible, direct precipitation shall be retained on site. It shall be strongly encouraged that all storm water retention basins will be landscaped with appropriate plantings to withstand excess water and to aid in the filtration of polluted runoff.
4. Exterior lighting in this Zone District shall be controlled to avoid spillover of light and glare on operators of motor vehicles, pedestrians, and land uses in the proximity of the light source. Furthermore, in order to preserve and enhance the community's natural resource of dark skies, all outdoor night lighting fixtures shall be effectively shielded to prevent direct or reflected light into the sky.
5. All outdoor storage is enclosed on all sides by a solid fence at least six (6) feet high as defined in Section 10-1-4.XXX of this Ordinance. Any stored materials shall not be stacked or arranged above the height of the screen wall or fence.
6. There shall be no storage within setback areas as defined in 10-1-5.D.; or alternatively there is designated emergency access.
7. All display and storage areas shall not impose an undue burden upon police, fire or other emergency response officials or otherwise provide an unsafe or hazardous environment and must allow free access for equipment.
8. All display and storage areas shall be kept weed, refuse and vermin free and not present a hazard to customers or the health, safety and welfare of the Village.
9. All display shall be set back from the street and public right-of-way lines so as not to obstruct pedestrian or vehicle traffic, allowing adequate visibility consistent with 10-1-5.O. of this Ordinance.
10. Adequate refuse containers shall be provided to control litter.
11. Adequate sanitary facilities (restrooms) either portable or permanent shall be provided on site.
12. A list of hazardous materials or explosives that are stored in bulk on the property with such storage areas clearly marked on the map shall be provided to the Fire Chief and the Flood Plain Administrator.
13. No use will be allowed which will create dangerous, injurious, noxious, or other conditions that will pose a threat to public health, safety and welfare. No adverse impact on surrounding property will be allowed.
14. All businesses shall pay a business registration fee within ten (10) days following issuance of such permit; and shall maintain a current state taxation and revenue number and state licensing and certification if applicable to the type of business conducted.

15. There shall be adequate, legal access, which may require a New Mexico Department of Transportation access permit for development on New Mexico Highway 47.

**K. Setbacks, Lot Size and Open Space.**

Minimum lot size for this Zone District shall be a minimum of one quarter of one acre (10,890 square feet) and shall meet the following requirements:

1. Development is connected to the Village water and wastewater systems;
2. There shall be adequate storm-water retention as specified in Section 10-1-5.N. of this Ordinance;
3. There shall be adequate off street parking as specified in Section 10-1-19 of this Ordinance;
4. There shall be set backs as required in Section 10-1-5.D. of this Ordinance.
5. There shall be no adverse impact created upon contiguous properties;
6. In such cases where both water and wastewater system connections are not established, the minimum lot size shall be three-quarters of one (1) acre (32,670 square feet) with on-site storm-water retention; and
7. Site development plans are required for all new development in this Zone District.

**L. Exceptions:** Any and all other business activities and/or the like of which are not covered in this Ordinance shall be disallowed except by completing and filing a Business Exception Permit which will be presented to the Planning and Zoning Commission for determination. Permits may or may not be allowed after consideration of this Ordinance and the Comprehensive Land Use Plan.

## **10-1-12 WPOZ WELLHEAD PROTECTION OVERLAY ZONE.**

**A. Intent.** This Section is intended to provide supplemental land use and development regulations in an area designated to protect the groundwater source of municipal water supply wells from contamination originating from human activities. Specifically, regulations shall be imposed on the surface and subsurface area surrounding a municipal water supply well, through which contaminants are likely to move toward and reach such water well.

**B. Designation of Overlay Zone.** The designation of one or more Wellhead Protection Overlay Zones is hereby established under the following criteria:

1. A Wellhead Protection Overlay Zone shall be delineated as a geographic area within a 1,000 (one thousand) foot radius around each municipal water supply wellhead, as recommended by the New Mexico Environment Department in the State Wellhead Protection Program.
2. An alternative delineation of the Wellhead Protection Overlay Zone may be used, provided it is based on an acceptable hydro geologic evaluation and a validated groundwater flow model.
3. The Governing Body shall determine interpretation regarding whether any particular property is within or outside of any Wellhead Protection Overlay Zone.
4. Wellhead Protection Overlay Zones shall be delineated on the Village Zone Map, and shall be available for public inspection at the Village Office.

5. In the event that a Wellhead Protection Overlay Zone lies partially or wholly outside the municipal corporate limits, extraterritorial jurisdiction shall be imposed as authorized by Section 3-27-3 NMSA 1978. Intergovernmental arrangements with another governmental entity, within whose jurisdiction lies within the Wellhead Protection Overlay Zone, may be executed through a Joint Powers Agreement as authorized by Sections 11-1-1 to 11-1-7 NMSA 1978, for the purposes of coordinated planning and administration of this Section.

**C. Conditional Uses.** A Conditional Use Permit shall be granted by the Village of Bosque Farms and shall be either permanent or renewable, depending upon the requirements and procedures for Conditional Uses as specified by this Ordinance as follows:

1. All non-residential land activities located within the Wellhead Protection Overlay Zone; and
2. All residential land uses with on-site liquid waste disposal systems located within the Wellhead Protection Overlay Zone.

**D. Prohibited Uses.** Businesses, materials and activities of the following types shall not be allowed within Wellhead Protection Overlay Zones:

1. Solid Waste Disposal, including transfer stations.
2. Underground Storage Tanks.
3. Uncontained storage of road salt or other deicing materials.
4. Industrial Uses which discharge contact-type process waters on-site.
5. Commercial Animal Feedlots.
6. Mining Activities, including sand and gravel excavation.
7. Automotive Fueling, Maintenance, Repair, and Salvage Activities.
8. Collection, Storage, processing, or Disposal of Hazardous Materials.
9. Commercial Septage Disposal Sites.
10. Liquid Petroleum Product Pipelines.
11. Trucking and Bus Terminals.
12. Dry Cleaning Business.
13. Electrical, Electronic Manufacturing Facility.
14. Metal Plating, Finishing, or Fabricating Facility.
15. Chemical Processing or Storage Facility.
16. Wood Preserving or Treating Facility.
17. Junk, Scrap, or Salvage Yard.
18. Irrigated Nursery or Greenhouse Stock.
19. Injection Wells, Dry Wells, or Sumps.

**E. Special Conditions.** The following conditions apply to all uses within the Wellhead Protection Overlay Zone:

1. In addition to the prohibitions set forth in this Section, any use involving a discharge to groundwater is not allowed in this Zone unless the discharge is demonstrated to cause no contamination of the receiving groundwater.
2. On-site liquid waste disposal systems shall be subject to periodic inspection to determine compliance with the New Mexico Liquid Waste Disposal Regulations.
3. Use of pesticides, herbicides, fertilizers, manures, and other potentially dangerous leachable substances shall be minimized, and bulk storage of these substances shall be prohibited.
4. The minimum lot size for any use with an on-site liquid waste disposal system shall be one (1) acre.
5. Proposals for nonresidential development in this Zone shall include a site plan indicating:
  - a. any subsurface disposal of waste material;
  - b. proposed earth moving operations which alter slope or composition of soil;
  - c. proposed methods of conveying water from paved surfaces; and
  - d. any proposed diversion of surface or groundwater.
6. Every abandoned well shall be filled and plugged with such materials and in such manner to prevent contamination from entering the groundwater through the abandoned well according to state regulations.
7. All facilities shall adhere to appropriate state and federal standards for storage, handling, and disposal of any hazardous waste material.
8. An acceptable contingency plan for all facilities with hazardous materials onsite shall prepare an acceptable contingency plan preventing hazardous materials from contaminating the underlying aquifer should floods, fire, or other natural catastrophes, equipment failure or release occur.
9. For fire control, plans shall include but not be limited to a safe fire fighting procedure, a fire retarding system, effective containment of any liquid runoff, and provide for dealing safely with any other health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are pipes, liquids, chemicals, or open flames in the immediate vicinity.
10. For any release occurring the owner and/or operator shall report all incidents involving liquid or chemical material to the Village Planning & Zoning Administrator/Officer.

**F. Substantial Modification.**

1. Substantial modification shall be supported by scientifically based studies from a qualified source.
2. Any facility involving the collection handling, manufacture, use, storage, transfer or disposal of any hazardous solid or liquid material or wastes shall have a secondary containment system

which is easily inspected and whose purpose is to intercept any leak or release from the primary containment vessel or structure.

3. Adherence to the Spill Prevention Countermeasure Control (SPCC) Regulations, where applicable, is required.
4. Underground tanks or buried pipes carrying hazardous materials shall have double walls and inspectable sumps.
5. Open liquid waste ponds containing hazardous materials shall not be permitted without a secondary containment system.
6. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one locality in one tank or series of tanks shall be in elevated tanks, such tanks shall have a secondary containment system.

**G. Administration.** Primary responsibility for administering this Section shall be assigned to the Planning & Zoning Administrator/Officer and Public Utilities Director, who shall be assisted by other municipal employees as appropriate. The following duties shall be performed by the Planning & Zoning Administrator/Officer within the Wellhead Protection Overlay Zone:

1. Maintain a special file for those Conditional Uses within the Wellhead Protection Overlay Zone;
2. Maintain a map-based inventory of all land use activities including septic tanks, underground storage tanks, and all other water wells, public and private, active and abandoned, within the Wellhead Protection Overlay Zone;
3. Conduct on-site inspections as necessary to enforce the provisions of this Section;
4. Develop and maintain a contingency plan for the provision of alternate drinking water supplies in the event of contamination at a municipal water supply well: and
5. Prepare and present an annual report during the first quarter to the Governing Body for the purpose of summarizing the status of land use activities within the Wellhead Protection Overlay zone and any actions taken, or in the progress, by the Village of Bosque Farms carrying out the provisions of this Section. Following acceptance of such annual report by the Governing Body, a copy of such annual report shall be transmitted to the appropriate staff of the New Mexico Environment Department.

## **10-1- 13 CONDITIONAL USE PROCEDURES.**

**A. Permit Required.** No Conditional Use shall be established in any Zone District, except upon permit issued by the Commission, which shall be guided in making a decision by the criteria set forth in this Section. Conditional Use Permits shall apply only to the property that was granted the CUP and are not transferable to another site. Any person seeking a Conditional Use Permit shall provide to the Commission such information as it may reasonably require determining whether the grant of the requested Conditional Use Permit is consistent with the intent and purpose of this Ordinance. Any change in the terms and/or conditions shall require re-application.

**B. Application.** Any request for Conditional Use Permit shall be submitted with filing fee on an application obtainable at the Village offices. Any land owner wishing to apply for a CUP that is currently held by a lessee for the same use may have the filing fee waived until January 5, 2016. The Planning & Zoning Administrator/Officer shall transmit the application and any supplementary information to the Commission for review and consideration for the next regular Commission

meeting scheduled at least twenty (20) days after the completed application is received by the Planning & Zoning Administrator/Officer.

**C. Public Notification.** The applicant shall post and maintain one or more signs on the premises, as provided and where instructed by the Planning & Zoning Administrator/Officer, at least fifteen (15) days prior to the date of the Commission meeting at which the Conditional Use Permit application will be heard or fifteen (15) days prior to the Home Occupation Permit being approved by the Planning & Zoning Administrator/Officer.

**D. Guidelines.** In considering an application for a Conditional Use Permit, the Commission shall not grant any Conditional Use Permit unless satisfactory provision and arrangement has been made concerning the following minimum guidelines, where applicable.

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe. Written documentation showing that the New Mexico Department of Transportation has been notified of the new use, if accessing Bosque Farms Boulevard (NMSA 47);
2. Off-street parking and loading areas where required, with particular attention to refuse and service areas;
3. Public and private utilities with reference to locations, availability, and compatibility;
4. The noise, glare, odor, or economic effects of the Conditional Use on adjoining properties;
5. General compatibility with adjacent properties and other property in the district; and
6. All uses with a Conditional Use Permit shall comply with the regulations of the New Mexico Environment Department, if applicable.

**E. Denial.** If any Conditional Use Permit is denied, the Commission shall state in writing the reason for denial.

1. Any of the following reasons shall be cause for withdrawal by the Commission of a Conditional Use Permit (as applicable):
  - a. Misrepresentation of information stated on the permit application or presented before the Commission;
  - b. Violating any of the limits or restrictions stated on the permit application; and
  - c. Applicants who do not bring in the required documentation relating to any part of this Section within thirty (30) days.

**F. Violation and/or Breach of the Conditional Use Permit.** Shall be heard by the commission at the next regularly scheduled meeting after the violation is made known to them. Violation and/or breach of any provision may result in termination of the Conditional Use Permit. Knowingly violating any of this subsection is punishable by a fine of up to \$500 (five hundred dollars) per day.

**G. Re-evaluation.** Where there has been significant change in the physical extent, operations, or character of a permitted Conditional Use, the Commission may require a reevaluation of the Conditional Use Permit. Significant change shall be determined by the Commission, based on a review of the Conditional Use Permit.

**H. Expiration.** Conditional Use Permits shall be either permanent or renewable.

1. Permanent Conditional Uses may be granted to land owner on a permanent basis but shall comply with Section 10-1-13.H.3 of this Ordinance.
2. Renewable Conditional Uses may be granted to a land owner or business operator and shall be approved for a specified duration at the Commissioners discretion.
3. If the rights and privileges granted under the Conditional Use Permit have not been used for a period of one year, OR, if after the Use has begun, it ceases for a period of one year as determined by the Planning and Zoning Administrator/Officer, there shall be an automatic expiration of the Conditional Use Permit.
4. Non-compliance with any special restriction or requirement after thirty (30) days following the date of the permit, or a stated effective date on the permit shall render the permit null and void.

**I. Renewable Conditional Use.** Thirty (30) days prior to expiration, the permit shall be subject to review and possible extension by the Planning & Zoning Administrator/Officer, if no changes have been made to the original application or the currently approved Conditional Use Permit. If there are changes, the application shall be forwarded to the Commission and shall be processed in the same manner as the original application,

**J. Special Requirements.** For any Conditional Use Permit, the Commission may establish special restrictions or requirements, and the reasons for such restrictions or requirements shall be clearly stated in writing on the Conditional Use Permit.

**K. Additional Requirements.** All recipients of a Conditional Use Permit for a Business or Home Occupation shall pay a Business Registration Fee within ten (10) days following the issuance of such permit. All recipients of a Conditional Use Permit shall maintain a current State Taxation Revenue Number and State Licensing and Certification, if applicable to the type of business conducted.

**L. Home Occupation Permit.** A Conditional Use Permit for a Home Occupation shall be either permanent or renewable and may be issued by the Planning & Zoning Administrator/Officer or Commission submit to the following requirements. If a Home Occupation Permit meets all the following requirements, it may be approved by the Planning & Zoning Administrator/Officer. Any deviations from the following requirements will require approval from the Planning & Zoning Commission. In either case, the posting of the sign will be required by the applicant as per Section 10-1-13.C. of this Ordinance.

1. No person other than members of the family residing on the premises shall be engaged in a Home Occupation. Allowances shall be made for non-family employees not working on the premises of the Home Occupation to visit the premises provided such employees responsibilities are identified, and the frequency of daily trips made to the premises of the Home Occupation is stated. Non-family member employees shall not report for work at the Home Occupation premises;
2. The use of the dwelling unit for a Home Occupation shall be clearly incidental and subordinate to its principal use for residential purposes by its occupants, and not more than twenty five percent (25%) of the floor area of such dwelling unit, or more than six-hundred (600) square feet of an accessory building, contiguous and partitioned, shall be used in the conduct of the Home Occupation;

3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a Home Occupation other than one sign, not to exceed five (5) square feet, as regulated by this Ordinance (Section 10-1-20.D.9.);
4. There shall be no sales in connection with a Home Occupation that would disrupt the residential nature of the district;
5. No traffic shall be generated by a Home Occupation in greater volumes than would normally be expected in a residential neighborhood;
6. No equipment or process shall be used in a Home Occupation which creates a nuisance such as noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses, off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in the line voltage off the premises.
7. A maximum of two (2) service vehicles is allowed if one (1) is stored in an enclosed building.
8. Upon the approval of a Conditional Use Permit for a Home Occupation by the Commission, a copy of such permit, along with any supplemental documentation, shall be provided to the applicant. The Commission shall ascertain that all limits and restrictions are clear to the applicant at the time of permit approval;
9. A list of hazardous materials or explosives that are stored in bulk on the property which are used in the Home Occupation, shall have storage areas clearly marked on the map which shall be provided to the Fire Chief and the Flood Plain Administrator.; and
10. No use will be allowed which will create dangerous, injurious, noxious, or other conditions that will pose a threat to public health, safety and welfare. No adverse impact on surrounding property will be allowed.
11. Upon issuance of a Conditional Use Permit for a Home Occupation shall pay a Business Registration Fee within ten (10) days following the issuance of such permit.

**M. Bed and Breakfast.**

1. **Zoning Requirements.** A bed and breakfast establishment is permitted (with a Conditional Use Permit) only in C-1, R-1 and AR zoning districts. Minimum lot size in the R-1 Zone District shall be three-quarters of one acre (32,670 square feet) and minimum lot size in the AR Zone District shall be 2 acres (87,120 square feet). Bed and breakfast establishments are prohibited in all other Zone Districts. A bed and breakfast will only be allowed on Village streets designated as "Collector" streets and on "Local streets if all property owners within one hundred (100) feet are in agreement.
2. **Permits/Licenses Required.** No bed and breakfast use shall be lawfully established without first obtaining a Conditional Use Permit pursuant to the provisions of this Ordinance. Additionally, before issuance of a Conditional Use Permit, an applicant shall show satisfactory written proof that the property has been inspected and approved by the Planning & Zoning Administrator for compliance with these regulations, and the Health Department, and that all required licenses have been issued by the State of New Mexico. The facility shall comply with all applicable fire, health and safety codes.
3. **Accessory Use.** A bed and breakfast facility shall be accessory to the use of a property as a single-family residential home. This means that the individual or family who operates the facility shall also occupy the house as their primary residence.

4. **Maximum Size.** Bed and breakfast facilities are limited to a maximum of four (4) guest rooms available for rent to guests. The bed and breakfast room(s) shall occupy no more than a total of twenty-five percent (25%) of the dwelling unit floor area. All guest rooms shall be contained within the principal structure. No residence shall be utilized for a bed and breakfast operation unless there are at least two (2) exits to the outdoors from such premises. Rooms utilized for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants with an additional thirty (30) square feet for each additional occupant to a maximum of four (4) occupants per room.
5. **Lighting.** Lighting shall be provided and shall be kept to a contiguous, compact and well-defined area between the residential structure and the parking area. Any additional exterior lighting for the bed and breakfast is prohibited.
6. **Parking:** All parking, whether for guests, property owners, employee, or invitees, shall be on-site. No parking shall be allowed on any public streets or roads. One (1) off street parking space per room to be rented shall be provided, in addition to owners vehicles. Tandem parking is allowed; however, not more than two (2) cars per lane shall be allowed.
7. **Signage.** Bed and breakfast establishments are allowed an identification sign not exceeding five (5) square feet in size. The signs shall be located on site as per Section 10-1-20.D. of this Ordinance.
8. **Appearance.** Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure from being used as a residence in the future. Internal or external changes which will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include paving of required setbacks, and commercial-type exterior lighting. The kitchen shall not be remodeled into a commercial kitchen, however commercial grade appliances may be allowed as recommended by NMED.
9. **Sewer and Water Hookup.** The residence shall be connected to the Village sewer and water systems.
10. **Smoke Alarms.** Smoke alarms shall be hardwired (not battery operated), installed and maintained in each room designated for guest occupancy.
11. **Fire Extinguisher.** A minimum 1A:10 BC portable fire extinguisher shall be provided in the kitchen of the bed and breakfast residence.
12. **Escape Window.** Each guest room in the bed and breakfast residence shall be provided with an escape window as defined in the state building code.
13. **Employees.** A bed and breakfast establishment shall have no employees.
14. **Length of Stay.** No guest shall stay in the facility for more than fourteen (14) days within any thirty (30) day period.
15. **Guest Log Book.** All bed and breakfast facilities shall maintain a guest log for all paying guests that shall include the names and home addresses of guests, guest licenses plate numbers if traveling by automobile, dates of stay, and the room number of each guest. It shall be unlawful for any person to make false statements in said register. No page of the register may be disposed of until three (3) years after the date of the most-recent entry recorded on it.
16. **Liquor Service.** No liquor is to be sold or served by the owner/manager to paying guests on the premises.

17. **Meals.** A morning meal shall be served on premises and included within the room charge for guests of the facility and shall be the only meal provided. The facility is not allowed to serve meals to non-resident guest for compensation. Additionally, there shall be no cooking in the guest rooms, other than microwave use.
18. **Other Uses.** The facility shall not be used for commercial receptions or other public gatherings.
19. **Public Hearing and Acceptance.** Whenever a bed and breakfast facility is proposed, the Planning and Zoning Administrator will contact by written notification, certified US mail and return receipt requested, all residential (property) home owners within one hundred (100) feet of the dwelling excluding public right-of-way, to determine if they accept the proposed change in use for the property. If more than two-thirds of the residents contacted within the one hundred (100) foot zone are against the bed and breakfast facility then that may serve as a basis for denial of the Conditional Use. Noncompliance with the provisions of this Ordinance, other Village Ordinances, and State Statutes is also grounds for denial.

## **10-1-14 SPECIAL USE PERMITS.**

- A. Intent.** This permit permits only those approved uses which require special consideration because of their unusual characteristics, dimensions, and frequency of occurrence, effect on surrounding property or other similar reason. This permit may be determined on a case by case basis following the procedures for a Zone Change as provided by this Ordinance. Any accessory uses shall be approved by the Governing Body. Any change in the terms and/or conditions shall require re-application. Supplementary regulations and special conditions may be imposed by the Governing Body upon recommendation by the Commission. The Governing Body shall not grant a Special Use Permit unless satisfactory provisions have been made"
1. To preserve the integrity, character and the value of the property in adjacent Zone Districts.
  2. To assure that the Special Use Permit will not become detrimental to the public health, safety or general welfare of the Village;
  3. To assure that the Special Use Permit will not pose a danger of explosion, toxic or noxious odors or otherwise endanger adjacent properties or the general public.
- B. Application.** Each application for a Special Use Permit shall declare the proposed use and shall be accompanied by development plans of sufficient size and scale and which shall include:
- a. A Site Development Plan (SDP) shall be required for all new or redeveloped land use for this Special Use Permit. At a minimum, the SDP shall include the following:
    1. A written statement explaining the purpose and intent of the development, and a development phase schedule, if appropriate;
    2. Boundaries and topography of the property to be developed;
    3. A site map, of sufficient size and scale, showing the proposed location, type use and size of all structures, setbacks, signs, lighting, on-site parking and loading areas, as required in Section 10-1-18 of this Ordinance, on-site storm water retention facilities, landscaping, fencing, driveways, traffic and pedestrian

circulation routes, and emergency vehicle access. Other information to show compliance with Village Ordinances shall be required;

4. Details of the engineering design of the on-site parking and on-site storm water retention facilities shall be included in the SDP;
5. Delineation of proposed dedications and easements for public right-of-way;
6. An area map showing the location, type, use and size of all structures on adjacent properties within two-hundred (200) feet of the proposed development;
7. Written documentation showing that the New Mexico Department of Transportation has been notified of the new use if accessing a New Mexico State Highway;
8. Deviation of changes from the site plan shall be reviewed by the Commission for approval before the changes are implemented; and
9. A Traffic Study may be required as per Ordinance 10-2-10.B. Land Use Subdivision Regulations.

**C. Special Provisions.**

1. Any development plans proposed infrastructure improvements such as streets, sidewalks, and water and sewer utilities shall be subject to the requirement for subdivision approval as set forth in the Village Land Subdivision Regulations 10-2. In addition, any subdivision of land shall be subject to the provisions of 10-2.
2. Landscaping shall be strongly encouraged on all new and existing development. The following guidelines are provided for landscaping design:
  - a. Visually attractive trees and shrubs should be placed along Bosque Farms Boulevard to enhance and soften the streetscape.
  - b. Landscaping is encouraged to be placed as buffers along the perimeter of the Special Use Permit property and contiguous properties.
  - c. Trees should be interspersed throughout off-street parking areas to provide shade for parked cars.
  - d. No development shall divert or channel storm water runoff to contiguous properties. To the extent possible, direct precipitation shall be retained on site. It shall strongly be encouraged that storm water retention basins may be landscaped with appropriate plantings to withstand excess water and to aid in the filtration of polluted runoff.
  - e. Exterior lighting in accordance with Section 10-1-5.F. of this Ordinance. All outside storage shall be enclosed behind a solid fence of at least six (6) feet high as defined in Section 10-1-4.XXX. of this Ordinance.
  - f. Adequate refuse containers shall be provided to control litter.
  - g. Adequate sanitary facilities (restrooms) either portable or permanent shall be provided on site.

- h. A list of hazardous chemicals or explosives that are stored in bulk on the property with such storage areas clearly marked on the map shall be provided to the Fire Chief and the Flood Plain Administrator;
- i. No use will be allowed which will create dangerous, injurious, noxious, or other conditions that will pose a threat to public health, safety and welfare. No adverse impact on surrounding properties will be allowed.
- j. All businesses shall pay a business registration fee within ten (10) days following approval of the Special Use Permit and shall maintain a current taxation and revenue number and state licensing and certification if applicable to the type of business conducted.
- k. There shall be adequate, legal access, which may require a New Mexico State Transportation Department access permit for development on New Mexico Highway 47.
- l. If the owners of twenty percent (20%) or more of the area of the lots and the land included in the area proposed for a Special Use Permit or within one hundred (100) feet, excluding public right-of-way, of the area proposed protest in writing of the proposed change, the proposed change shall not become effective unless the change is approved by a majority vote of all the members of the Governing Body.

**D. Termination of a Special Use Permit.** In the event that a use authorized as a Special Use Permit is discontinued for a period of thirty (30) days, such use shall not thereafter be reestablished unless there is reapplication for a Special Use Permit.

**E. Revocation of Existing Special Use Zones and Issuance of a Special Use Permit.** That upon the enactment of this Ordinance any and all properties, which have an existing Special Use Zone, are hereby rescinded and deemed null and void. Such existing Special Use Zones will be issued a Special Use Permit within thirty (30) days of the enactment of this Ordinance. All such properties, which had been issued a Special Use Zone and issued a Special Use Permit, shall adhere to the provisions of this Ordinance. All Special Use Zoned effected by this Section are permitted to continue its respective Special Use Zone activity within the thirty (30) days as prescribed herein.

## **10-1-15 ZONE CHANGE AMENDMENT PROCEDURES.**

**A. Intent:** The major focus of any recommendations for change or endorsement of plans as presented shall be to promote the educational, cultural, and economic welfare of the Village by preserving and protecting neighborhoods and a rural lifestyle and to strengthen the economy of the Village by stabilizing and improving the property values to help property owners to avoid any action which might tend to decrease property values.

### **B. Map Amendment Procedures.**

1. **Amendment.** Application for amendment to the Zone Map may be made by any landowner or his agent or by the Village of Bosque Farms or any official or body thereof.
2. **Application.** Amendments to the Zone Map shall be initiated by application to the Village of Bosque Farms on prescribed forms and upon payment of an administrative fee. The administrative fee will be waived if the proposed change is initiated by the Planning & Zoning Administrator/Officer/Officer. A completed signed and notarized application form shall be received by the Planning & Zoning Administrator/Officer/Officer at least twenty (20) days prior to the Commission meeting date when the application will be considered. Each application for

an amendment to the Zone Map shall be accompanied by an accurate site plan, building plan, sketch, evidence of interest in property, and other related information as required by this Ordinance, the Commission or the Governing Body. Submission of inaccurate information with an application is grounds for denial.

3. **Preliminary Public Meeting.** The Commission shall hold a public meeting to evaluate proposed zone changes or amendments to this Ordinance and shall submit its recommendation in writing to the Governing Body. Notice of the public meeting shall be given in accordance with the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4. at least fifteen (15) days prior to said meeting.
4. **Posting.** Applicants requesting a zone change shall post a copy of the prescribed form on the property at the applicant's expense. Posting shall be in the form of a sign structure at least three (3) feet high and large enough to receive the form. The sign shall be placed in such a location that it can readily be viewed from the nearest roadway at least fifteen (15) days prior to preliminary public meeting.
5. **Spot Zoning.** Any request for a change of zoning for a relatively small area which would establish a Zone District that is inconsistent or incompatible with the surrounding area, and which might bring about a detriment to the surrounding area, shall be considered an inappropriate zone change and shall be given a negative recommendation from the Commission to the Governing Body, unless it is demonstrated that the public welfare will be served.
6. **Commission Recommendation.** All applications for an amendment to this Ordinance shall first be reviewed by the Commission who shall submit a written recommendation concerning the application to the Governing Body. If the Commission fails to make such a written recommendation to the Governing Body within forty-five (45) days after receipt thereof, then the Governing Body shall act upon said application without a recommendation by the Commission.
7. **Final Public Hearing.** The Governing Body shall conduct a public hearing at which all parties in interest and citizens shall have an opportunity to be heard. Notification of the time and place of the public hearing shall be in accordance with the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4. at least 15 (fifteen) days prior to the hearing. The notice of public meeting published fifteen (15) days before the Commission meeting shall be considered sufficient notice if it also has included the time and place of the public hearing to be held by the Governing Body. Whenever a change in a zoning district boundary is proposed, notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners of land within the area proposed to be changed by a zoning regulation and within one hundred (100) feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation.
8. **Decision.** If the owners of twenty percent (20%) or more of the area of the lots and of land included in the area proposed to be changed by a zoning regulation or within one hundred (100) feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing of the proposed change in the zoning regulation, the proposed change in zoning shall not become effective unless the change is approved by a majority vote of all the members of the Governing Body.

### **C. Ordinance Text Change Procedures.**

1. **Amendment.** Application for amendment to the text of this Ordinance may be made by any landowner or his agent or by the Village of Bosque Farms or any official or body thereof.

2. **Application.** Amendments to the text of this Ordinance shall be initiated by application to the Planning & Zoning Administrator/Officer/Officer on prescribed forms and upon payment of an administrative fee. The administrative fee will be waived if initiated by the Village of Bosque Farms. A completed signed and notarized application form shall be received by the Planning & Zoning Administrator/Officer/Officer at least twenty (20) days prior to the Commission meeting date when the application will be considered.
3. **Preliminary Public Meeting.** The Commission shall hold a public meeting to evaluate proposed zone changes or amendments to this Ordinance and shall submit its recommendation in writing to the Governing Body. Notice of the public meeting shall be given in accordance with the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4. at least fifteen (15) days prior to said meeting.
4. **Commission Recommendation.** All applications for an amendment to this Ordinance shall first be reviewed by the Commission who shall submit a written recommendation concerning the application to the Governing Body. If the Commission fails to make such a written recommendation to the Governing Body within forty-five (45) days after receipt thereof, then the Governing Body shall act upon said application without a recommendation by the Commission.
5. **Final Public Hearing.** The Governing Body shall conduct a public hearing at which all parties in interest and citizens shall have an opportunity to be heard. Notification of the time and place of the public hearing shall be given in accordance with the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4. at least fifteen (15) days prior to the hearing.

## **10-1-16 VARIANCE PROCEDURES.**

- A. **Definition.** The Village Governing Body may grant a variance from the strict application of area, height, dimension, distance, parking, loading, or setback requirements of this Ordinance in the case of exceptional physical conditions where the strict application of the requirements of this Ordinance would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of land or building only. Financial gain or loss shall not be a major determining factor in deciding a variance.
- B. **Application.** A request for a variance shall be submitted to the Planning & Zoning Administrator on prescribed application forms, and upon payment of an administrative fee. A completed, signed, and notarized application form shall be received by the Planning & Zoning Administrator/Officer at least twenty (20) days prior to the Commission meeting date when the application will be considered. Public notice shall be given in accordance with the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4. at least fifteen (15) days prior to the date of said meeting. The Commission will then make their recommendations to the Governing Body, which at their regular meeting will either approve or disapprove the variance request.
- C. **Considerations:** A variance shall be considered if:
  1. The applicant complies strictly with the provisions of this Ordinance, he can make no reasonable use of his property;
  2. The hardship relates to the applicant's land, rather than personal circumstances;
  3. The hardship is unique, rather than one shared by many surrounding properties;
  4. The hardship is not the result of the applicant's own actions; and
  5. The variance will not impact surrounding properties in a negative way.

- D. Posting Requirements.** The applicant shall post and maintain one or more signs on the premises, as provided and where instructed by the Planning & Zoning Administrator, at least fifteen (15) days prior to the date of the Commission meeting at which the application will be heard. The purpose of the sign or signs is to provide public notice of the application for a variance. Failure to properly post such signs is grounds for deferral or denial of the application. The applicant is responsible for removing such signs within five (5) days after a decision is made regarding the application.
- E. Requirements.** The Governing Body shall impose any necessary requirements or conditions in approving a variance in order to assure that the requested variance:
1. Will cause no significant hazard, annoyance, or inconvenience to the owners or occupants of nearby property;
  2. Will not significantly change the character of the neighborhood or reduce the value of nearby property;
  3. Will not impose any significant cost burden upon the Village, and
  4. Will be in harmony with the general purpose and intent of this Ordinance.

## **10-1-17 NON-CONFORMITIES.**

- A. Definition.** Within the Zone Districts (except Commercial Zone) established by this Ordinance, or amendments that shall be adopted, there exist: lots, structures, uses of land and structures, signs and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to allow these non-conformities to continue until they are removed, but not to encourage their survival.
- B. Certificate of Non-Conformance.** All non-conformities within the jurisdiction of this Ordinance shall be issued Certificates of Non-Conformance upon determination of non-conformity by the Planning & Zoning Administrator or Commission. Failure to accept the Certificate of Non-Conformance under the provision of the Section shall be considered a violation of this Ordinance.
- C. Expansion.** The addition of a lawful use to any portion of a non-conforming building, which existed prior to the enactment of this Ordinance, shall not be deemed an expansion of such non-conforming use.
- D. Reconstruction.** A non-conforming building shall not be reconstructed or structurally altered during its life to an extent exceeding an aggregate cost of twenty-five percent (25%) of the assessed value of the building unless said building is changed to a conforming use. Any building damaged by fire or other causes to the extent of more than fifty percent (50%) of its assessed value shall only be restored or rebuilt after an application for such restoration or rebuilding has been approved by the Commission and shall comply with regulations in Section 11-1-5.A., Flood Hazard Prevention Ordinance.
- E. Discontinuance.** Whenever a non-conforming use has been discontinued for a period of ninety (90) days, such use shall not thereafter be reestablished, and any future use shall conform to the provisions of this Ordinance.
- F. Vested Rights.** Nothing in this Ordinance shall require any change in plans, construction, or designated use of a building for which a building permit has been issued prior to enactment of this Ordinance, or amendments thereto.

**G. Non-conforming Lot Size.** Any lot of record existing prior to the effective date of this Ordinance which fails to meet the minimum area requirements shall be developed or improved provided that setbacks and any other requirements of the lot are in conformance with the provisions of this Ordinance. Unless specifically cited by the Commission, a Certificate of Non-Conformance will not be required for non-conforming lots.

**H. Special Exemption.** The following land uses which existed prior to the effective date of this Ordinance, or amendments thereto, shall be allowed to continue and shall be exempt from all requirements of this Section (10-1-17):

1. Farming, Ranching, and Dairying;
2. Farm Supplies and Equipment Sales and Service;
3. Dairy Products and Sales;
4. Greenhouse or Nursery, Landscaper; and
5. Stable, Riding School (commercial).

Sections or Subsections of this Ordinance, which regulate the above-noted land uses in Zone Districts where they are allowable land uses, shall also regulate these exempted non-conforming land uses. The exemption as noted herein shall be allowed only as long as the land area devoted to the above-noted land uses exceeds five (5) acres (two-hundred seventeen thousand, eight-hundred square feet) per lot.

## **10-1-18 DEVELOPMENT REVIEW/FLOOD HAZARD PROTECTION.**

**A. Review Required.** For the purpose of this Ordinance, no building or structure or ribbed metal panel shall be erected or substantial improvements constructed upon any lot within the Village of Bosque Farms without first being reviewed by the Planning & Zoning Administrator/Officer. Development Review Permit applications and building plans shall be submitted to the Planning & Zoning Administrator/Officer for review and signature before applying for a Building Permit with New Mexico Construction Industries Division.

**B. Mobile Home/Manufactured Housing Installation Permits.** Installation permits shall be reported to the Planning & Zoning Administrator/Officer upon issuance.

**C. On-Site Liquid Waste Disposal Permits.** Permits from the New Mexico Environment Department for installation of on-site liquid waste disposal systems shall be shown to the Planning & Zoning Administrator/Officer upon receipt.

**D. Review Process and Fee.** An administrative fee shall be paid at the Village Office prior to any consideration in the development review. The Planning & Zoning Administrator/Officer/Officer shall determine if a variance, zone change, Conditional Use, floodplain development permit as directed in Section 11-1-3.C. of the Flood Hazard Prevention Ordinance, or other permit is required, and if so, shall notify and advise the appropriate person of subsequent procedures as required by this Ordinance. A building permit application shall be returned, within three (3) working days after receipt by the Planning & Zoning Administrator/Officer/Officer.

## **10-1-19 OFF-STREET PARKING AND LOADING REQUIREMENTS.**

**A. Parking and Loading Space Required.** There shall be provided on site, when any new building or structure is erected, off-street parking and loading spaces as set forth herein. Existing buildings or structures need supply such parking and loading space only to the extent ground space is available. Such spaces may be located on any portion of the lot but shall not obstruct public right-of-way.

**B. Number of Parking Spaces.** The minimum number of designated parking spaces to be provided shall be as follows:

1. Banks, offices, service establishments, retail businesses, and public buildings: one (1) space per three-hundred (300) square feet of floor area.
2. Bed and Breakfast Establishments: as per Section 10-1-14.M. of this Ordinance.
3. Bowling alleys: four (4) spaces per alley.
4. Club, lodge, or fraternal organizations: one (1) space per two-hundred (200) square feet of floor area.
5. Commercial Garage: one (1) space per service bay.
6. Dwelling units: two (2) spaces per dwelling unit.
7. Flea Market: at least two (2) spaces per rental stall on the lot.
8. Hospitals, clinics, and convalescent or nursing homes: one (1) space per bed and one (1) space per staff doctor.
9. Industrial, manufacturing, and wholesaling establishments: one (1) space per two (2) employees on largest shift.
10. Laundromats: one (1) space per three (3) washing machines.
11. Medical and dental offices: five (5) spaces per doctor.
12. Mobile Home Sales Lots: one (1) space per six (6) mobile homes for sale.
13. Motor Vehicle Sales lots: one (1) space per six (6) sales vehicles on the lot.
14. Places of public assembly, including churches, community centers, auditoriums, theaters, gymnasiums, and arenas: one (1) space per four (4) seats.
15. Restaurants, bars: one (1) space per four (4) seats plus one (1) space per two (2) employees on largest shift.
16. Shopping center developments: five (5) spaces per 1000 square feet of floor area.

**C. Parking Design Standards.** The following standards shall be applied to off-street parking areas:

1. All parking facilities shall provide adequate ingress and egress to a roadway or public right-of-way;
2. All driveways shall be of sufficient width to permit access into parking area but in no circumstance shall be less than twenty (20) feet wide except in residential use;

3. Each parking space shall consist of an area not less than nine (9) feet in width by twenty (20) feet in length, exclusive of driveway area, except those in residential use; and
4. On any lot in residential use, the off-street parking area shall be consolidated to the extent possible and shall not exceed twenty (20) percent of the total lot area.

**D. Development/Building Permit Review.** An applicant for a Development Review /Building Permit shall submit plans showing the off-street parking required by this Ordinance. These plans shall show location, arrangement, dimensions of the off-street parking, turning spaces, drives, aisles, and ingress and egress in a manner satisfactory to the Planning & Zoning Administrator/Officer.

**E. Off-Street Loading Requirements.** Off-Street loading space shall be provided for all structures which receive or distribute bulk materials by motor vehicle. The following standards shall apply:

1. Required off-street loading space shall not be located on designated off-street parking space or public right-of-way;
2. Individual off-street loading spaces shall be at least fifty (50) feet by twelve (12) feet; and
3. All buildings used for commercial or industrial purposes shall be provided with off-street loading space.

## **10-1-20 SIGNS AND OUTDOOR ADVERTISING DEVICES.**

**A. Special Definitions.** For the purpose of this Section the following definitions shall apply:

1. **"Sign"** means any display to public view of letters, words, numerals, figures, statues, devices, emblems, logos, pictures, or any parts or combinations thereof designed to inform or advertise or promote merchandise, services, or activities except for the following which shall not be included in the application of regulations herein:
  - a. National, State, or locally recognized commemorative symbols, flags, plaques, or Historical markers (Note: The use of the flag of the United States of America is regulated under federal law, specifically the Flag Code, Public Law 94-344, which limits the use of the flag and does not allow it to be used for advertising);
  - b. Signs or official notices required by law or signs of a duly constituted governmental body or agency;
  - c. Merchandise and pictures or other devices describing products or services when incorporated in a window display; and
  - d. Signs placed by a public utility for the health, safety, welfare, or convenience of the public.
2. **"Animated Sign"** means any sign that uses movement of light, or change in the lighting to depict action or create a special effect or scene, within the sign face.
3. **"Auxiliary Sign"** means a sign which provides specific information such as direction, price, sales information, hours of operation, or warning and does not include information regarding product lines or services. Examples of such signs include the following:
  - a. Signs identifying building contractor or future tenant of a building under construction;

- b. Real estate sale or lease signs and real estate directional signs;
  - c. Signs used by gasoline retailers to display prices of gasoline as required by law;
  - d. Signs which direct but do not obstruct the flow of traffic in or out of drives, parking areas and buildings; and
  - e. Signs which advertise an approved subdivision, its buildings, or individual parcels for sale.
4. **"Banner"** means any sign printed or displayed upon cloth or other flexible material, with or without frames.
  5. **"Building-Mounted Sign"** means a sign entirely supported by a building in the following manner: a wall sign, which is applied or mounted flush to any exterior surface of a building; and signs affixed to a marquee, awning, or canopy of a building. A building-mounted sign shall not project beyond the overall silhouette of the building.
  6. **"Directional Sign"** means any sign limited to directional messages such as "enter", "exit". Logos and business names are permitted as needed to complete the directional message.
  7. **"Freestanding Sign"** means a sign attached to an independent supporting structure, which is not an integral part of a building.
  8. **"Illuminated Sign"** means any non-moving, non-flashing sign which has characters, letters, figures, designs or outlines illuminated by an artificial light source.
  9. **"Indirect Light Source"** means a light that does not proceed straight to any object.
  10. **"Informational Sign"** means any sign of identification or of informational nature bearing no advertising.
  11. **"Off-Premise Sign"** means any sign that is not physically located on the premises to which the sign refers.
  12. **"On-Premise Sign"** means any sign that is physically located on the premises to which the sign refers.
  13. **"Pennant"** means any lightweight plastic fabric, or other material, including balloons, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.
  14. **"Portable Sign"** means any sign, which is mounted or transported on a trailer or similar structure, with or without wheels, and not permanently attached to the ground or any structure.
  15. **"Reader Board"** means a sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face or the surface of the sign. A reader board shall be a building-mounted, freestanding, or portable sign; and can include electronically changing text messages.
  16. **"Sign Face"** means the net geometric area enclosed by the display surface of the sign and which encompasses the outer extremities of all letters, characters and delineation's of the sign. On any two-sided sign, only one sign face is counted in computing the sign's area.

17. **"Spot Light"** means a strong beam of light that illuminates only a small area, used especially to center attention on an object.
18. **"Street Banner"** means a sign intended to be stretched across and hung over a public roadway.
19. **"Temporary Sign"** means a sign, which is designed to attract attention or announce a public event, community activity, civic or religious event, political campaign, business promotional events or other such signs which are erected for a limited time period.

**B. Sign Permits.** The following provisions apply to all Zone Districts within the Village of Bosque Farms:

1. No person shall erect a sign within Bosque Farms without first applying for a sign permit on a prescribed application form available from the Planning & Zoning Administrator/Officer. A permit will not be required for the following exceptions:
  - a. All signs or devices exempted by definition in this Section (refer to A.1.);
  - b. Professional name plates erected flush to building walls with a sign face not exceeding four (4) square feet;
  - c. Signs upon a motorized vehicle, provided that any such vehicle with a sign face over ten (10) square feet is not used in a manner to avoid the provisions of this Ordinance; nothing herein prevents such a vehicle from being used for a bona fide delivery and other vehicular purposes;
  - d. Temporary holiday decorations, except temporary street banners;
  - e. On-premises real estate signs with a sign face not exceeding ten (10) square feet;
  - f. Any renovation or content changes to the sign face, but not changes in dimension, location, or height;
  - g. Political Signs not to exceed 32 (thirty-two) square feet;
  - h. Signs which only display local time and temperature, not exceeding thirty-six (36) square feet;
  - i. Signs painted on the exterior surface of a building or structure. Wall signs shall not exceed one hundred (100) square feet or exceed thirty percent (30%) of the wall space, which ever is greater, in which the business or activity is housed. Wall signs shall be limited to advertise the business within the building or retail space, and products produced or sold by that business; and
  - j. Signs used by local, registered Non- Profit organizations at Village recreational facilities for advertising businesses supporting the organizations, not exceeding thirty-six (36) square feet per sign, will be the responsibility of the respective non-profit organization.
2. Applications for a sign permit shall be accompanied by an administrative fee and shall include the following information:
  - a. Name and address of the sign owner or sign lessee (if any);
  - b. Name and address of owner (or agent if applicable) of building or premise to which sign refers;

- c. A drawing showing the design, dimensions, and construction of the proposed sign or signs along with a site plan and/or building elevation drawing showing the location or placement of the sign or signs;
  - d. Signature of applicant for sign permit; and
  - e. Signature and written permission of landowner for off-premise signs.
3. If the Planning & Zoning Administrator determines that any sign permit which has been issued does not comply with the information supplied on the permit application form, or that the permitted sign is in violation with any other provisions of this Ordinance, then the Planning & Zoning Administrator/Officer shall notify the sign or building owner of such violation. Written notice shall be sent to the applicant of the sign permit, sign owner, and building owner by certified mail, return receipt requested. If the violation is not corrected within thirty (30) days following the date of such written notice, then the permit shall be terminated. Thereafter, a new permit application and fee shall be required in order to reinstate the permit. If no application is made to reinstate the terminated permit, the Planning & Zoning Administrator is authorized to remove or cause removal of such sign or signs in violation of this Ordinance, and any cost incidental thereto shall be assessed and paid by the sign owner or owner of the building or structure; and
  4. Any sign existing prior to the effective date of this Ordinance, and which is not in violation with any pre-existing Village sign regulations, and which also possesses a sign permit issued by the Village, shall be allowed to remain under this Ordinance.

**C. General Provisions.** The following general provisions apply to all signs within the Village of Bosque Farms:

1. No sign shall exceed twenty (20) feet in height, as measured from the grade to the highest part of the sign or its supporting structure;
2. Any sign located at a roadway intersection shall comply with the restrictions stated in this Ordinance regarding the vision clearance necessary within the designated triangular space on a corner lot (Section refer to 10-1-5.O. of this Ordinance);
3. No sign or portion thereof shall be placed within a dedicated public right-of-way or a private roadway;
4. All signs shall be repaired and maintained in an appropriate and safe manner. Any sign deemed to be in disrepair by the Planning & Zoning Administrator shall be considered to be in violation of this Ordinance; and
5. The following types of signs or advertising devices shall be prohibited within the Village of Bosque Farms:
  - a. Spotlights or beacons which do not illuminate a sign or which do not illuminate a building or parking lot for security purposes, provided such illumination does not adversely affect adjoining properties or roadways;
  - b. Portable swinger "A-frame" or sandwich board signs;
  - c. Signs attached to, or painted on any tree, rock or other natural object, utility pole, standpipe, fire escape, or any other man-made object not intended to support a sign;
  - d. Sign structure with three (3) or more sides containing sign faces; and

- e. Signs which are or may become a physical hazard to the public.

**D. Regulations for Business Signs.** The following regulations shall apply to all businesses, commercial activities, and services throughout the Village of Bosque Farms. Nothing under this Section shall inhibit the use of miscellaneous design features incorporated in the architectural scheme of a building.

1. No more than two (2) permanent, on-premise signs shall be allowed to advertise each business, commercial, or service activity;
2. Solely on Bosque Farms Boulevard (NMSH 47), no more than one (1) off-premise sign shall be allowed to advertise each business, commercial or service activity, provided the following conditions are met:
  - a. Such signs may be either a permanent or a portable sign; and
  - b. Such signs shall not exceed eight (8) feet above ground level.
3. One (1) additional, portable sign shall be allowed on any lot;
4. No sign face shall exceed thirty-six (36) square feet;
5. Signs may be illuminated and/or animated, but shall not move, or emit sounds;
6. One of the two permanent signs allowed for each business may be a freestanding sign, provided that only one such freestanding sign structure shall be allowed on any lot;
7. One of the two permanent signs allowed for each business may be a reader board, provided the following conditions are met:
  - a. The sign face shall not exceed thirty-six (36) square feet in size;
  - b. Such sign shall be on-premise; and
  - c. Such sign may be illuminated by indirect source only, no spot lights shall be allowed.
8. One of the two permanent signs allowed for each business may be an animated sign not to exceed thirty-six (36) square feet in size;
9. One non-illuminated sign is permitted for each Home Occupation, approved by the Village provided that no such sign face shall exceed five (5) square feet;
10. Buildings with multiple tenants, such as shopping centers, are allowed to have one freestanding sign and tenants shall share space on the freestanding sign. The total combined sign face for buildings with multiple tenants shall not exceed ninety-six (96) square feet, or sixteen (16) square feet per business, whichever is larger. The freestanding sign for multiple tenant shopping centers shall not count toward the two (2) allowable signs for each of the tenants in the shopping center.

**E. Regulations for Auxiliary Signs.** The following regulations for auxiliary signs shall apply to all Zone Districts, unless otherwise specified, within the Village of Bosque Farms:

1. Signs related to the sale, lease, or development of real estate shall comply with the following regulations:

- a. One on-premise sign per lot frontage is permitted, provided that each sign face shall not exceed ten (10) square feet;
  - b. Off-premise signs directing or leading prospective buyers to real estate for sale or lease shall be limited to no more than six (6) signs for each property, provided that no such sign face shall exceed five (5) square feet;
  - c. Signs promoting or advertising subdivisions for sale shall not have a sign face greater than thirty-six (36) square feet; and
  - d. All real estate signs shall be removed within thirty (30) days after the property is sold or the project is completed.
2. One price sign per gasoline retailer is permitted, provided that no such sign face shall exceed thirty-six (36) square feet;
  3. Any private signs which direct traffic shall not contain a sign face greater than five (5) square feet; and
  4. Informational signs relating to business, commercial or service activities shall be on-premise signs, each limited to a sign face no greater than five (5) square feet.

**F. Regulations for Temporary Signs.** The following regulations for temporary signs shall apply to all Zone Districts within the Village of Bosque Farms:

1. Signs related to a political campaign prior to an election shall be permitted on any lot provided the following conditions are met:
  - a. Such signs shall not be placed more than thirty (30) days prior to the final day of voting designated as Election Day and shall be removed within three (3) days following the election;
  - b. The height of such signs shall not exceed eight (8) feet above grade; and
  - c. Written permission of landowner shall be provided to the Planning & Zoning Administrator/Officer before placing a sign on vacant or unoccupied property.
2. All other temporary signs, including pennants and balloons, which are not related to a political campaign will be permitted on any lot provided that such signs shall not be displayed more than thirty (30) consecutive days for each announced event. A sign permit, purchased on an annual basis to run from January 1 to December 31, is required and shall be approved for use of no more than four (4) non-consecutive times within that year. Dates to be displayed shall be submitted at the time of application; and
3. Street banner signs shall receive prior written approval from the New Mexico Department of Transportation Traffic Engineer and the Village showing documentation that all requirements have been satisfied is required. These documents shall be submitted with a sign permit application to the Planning & Zoning Administrator/Officer for any street banner that is to be erected on Bosque Farms Boulevard (NMSH 47). The Village of Bosque Farms shall erect all street banner signs.

**G. Abandonment and Removal.** Any sign will be subject to removal or alteration by the business and/or property owner if one or more of the following conditions exist:

1. The sign does not contain legibly printed matter on the display surface; or

2. The sign is unsafe; or
3. The sign is not secure; or
4. The sign is a menace to the public; or
5. The sign has been erected in violation of this Ordinance; or
6. The sign, by its nature, has become obsolete for a period of ninety (90) days and therefore deemed to have been abandoned by the owner thereof.

## **10-1-21 FEES.**

**A. Applications and Permits.** All fees for application and permits shall be taken from fee schedule adopted by Resolution. All applications and permits required by this Ordinance shall not be processed without payment of an administrative fee as specified herein. Such fees shall not be required where the Village of Bosque Farms or any official thereof is the moving party.

**B. Fees.** Administrative fees will be charged according to fee schedule adopted by resolution.

## **10-1-22 APPEALS.**

### **A. Right of Appeal.**

1. Any person aggrieved by an interpretation, decision, or action of the Planning & Zoning Administrator/Officer/Officer in carrying out the provisions of this Ordinance may appeal such interpretation, decision, or action to the Planning & Zoning Commission.
2. Any person aggrieved by an interpretation, decision, or action of the Planning and Zoning Commission in carrying out the provisions of this Ordinance may appeal to the Governing Body. Such appeal shall set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the interpretation, decision, or action was not supported by evidence in the matter. The appeal to the Governing Body will be a record review from the Planning & Zoning hearing. The Governing Body may affirm in part and/or in whole and/or modify in part and/or in whole the decision of the Planning & Zoning Commission and/or remand the matter in part and/or in whole back to the Planning & Zoning Commission.
3. If the Governing Body's decision is adverse to the appellant, the appellant may appeal to District Court.

### **B. Application.**

1. Any appeal to the Commission following an interpretation, decision, or action of the Planning & Zoning Administrator/Officer/Officer shall be made in writing to the Village Clerk/Administrator on prescribed forms and upon payment of an administrative fee.
2. An appeal to the Governing Body following an interpretation, decision, or action of the Commission shall be made in writing to the Village Clerk/Administrator on prescribed forms and upon payment of an administrative fee.
3. Any appeal not submitted within thirty (30) days after the interpretation, decision, or action, which is the subject of the appeal, shall not be considered.

**C. Public Hearing.** The decision on an appeal shall be made by the Commission or Governing Body following a public hearing. Notification of the time and place of the public hearing shall be

published in a newspaper of general circulation in the area at least fifteen (15) days prior to the hearing. The Planning & Zoning Administrator/Officer shall notify the applicant, members of the Commission or Governing Body, and a representative of the opponents, if any, of the hearing date.

**D. Stay of Proceedings.** An appeal shall stay all proceedings in the action unless the Village Clerk/Administrator certifies that a stay will cause imminent peril to life or property. Upon such certification, the proceedings shall not be stayed except by order of district court.

**E. Decision.**

1. An appeal shall be decided within three (3) months of the date of application of the appeal.
2. A majority vote of the members of the Commission is required to reverse, change or affirm an interpretation, decision, or action made by the Planning & Zoning Administrator/Officer.
3. A majority vote of the members of the Governing Body is required to reverse, change or affirm an interpretation, decision, or action made by the Commission.
4. The Governing Body shall state in writing the final decision and the reasons for their decision, both for the applicant and to enter as a part of the permanent record.
5. If the Governing Body reverses an appeal from the action or decision made by the Commission, the appellant's fee shall be returned.

**10-1-23 ADMINISTRATION AND ENFORCEMENT.**

**A. Administrative Official.** A Planning & Zoning Administrator/Officer shall be appointed by the Mayor, subject to the approval of a majority of all members of the Governing Body, to administer the provisions of this Ordinance. The Planning & Zoning Administrator/Officer may also serve in some other capacity as an employee or appointed official of the Village of Bosque Farms. The Planning & Zoning Administrator/Officer shall have all the administrative powers in connection herewith which are not specifically assigned to some other officer or body. The Planning & Zoning Administrator/Officer shall have no power to vary or waive requirements of this Ordinance. The Planning & Zoning Administrator/Officer may delegate the authority to a Zoning Officer to administer and enforce the regulations of this Ordinance.

**B. Inspection.** The Planning & Zoning Administrator/Officer/Officer has the authority to conduct inspection of buildings, structures, and the use of land to determine compliance with this Ordinance. This provision does not grant right-of-entry without due process if necessary. The Planning & Zoning Administrator/Officer/Officer shall provide for on-site inspections and other relevant information, which may be requested by the Governing Body or Commission, as necessary, to carry out the purpose of this Ordinance.

**C. Information and Records.** The Planning & Zoning Administrator/Officer/Officer shall: make available to the public the information contained in this Ordinance, maintains the official Zone Map in a current manner, and make available to the public the records and forms and any other documents deemed relevant to this Ordinance.

**D. Violations: Complaints and Notification.**

1. The Planning & Zoning Administrator/Officer may institute any appropriate actions or proceedings whenever there is probable cause to believe there is a violation of this Ordinance.

2. Any person aggrieved by an apparent violation of this Ordinance may file a written complaint with the Planning & Zoning Administrator/Officer who shall investigate such complaint in a timely manner to determine if a violation of this Ordinance is found to exist.
3. Whenever the Planning & Zoning Administrator/Officer finds probable cause to believe a violation of this Ordinance exists, whether acting on independent initiative or in response to a complaint, the Planning & Zoning Administrator/Officer shall notify the person responsible for the alleged violation in writing.
4. Such notification shall order the necessary correction to be made within fifteen (15) days and ten (10) days in cases of violations constituting a health hazard as determined by days following the date of notification.
5. Any person who fails to comply with the notification or order shall be charged with a petty misdemeanor and subject to penalties as stated in this Ordinance. If the notice of violation is not complied with, the Planning & Zoning Administrator/Officer shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy or use in violation of the provisions of the Ordinance or of the order or direction made pursuant thereto.

#### **10-1- 24 PENALTIES.**

Any person violating any of the provisions of this Ordinance shall, upon conviction, be subject to a fine not exceeding \$500.00 (five hundred dollars) or imprisonment for a period not exceeding ninety (90) days, or both such fine and imprisonment. Violations continued for a period of fifteen (15) days after conviction shall be prosecuted and treated as a separate offense.

#### **10-1- 25 INTERPRETATION AND CONFLICT.**

- A. The provisions of this Ordinance are held to be minimum requirements to carry out the purpose of this Ordinance and are not intended to interfere with, abrogate, or annul any easement, covenant, or other valid Ordinance. Where this Ordinance imposes a greater restriction than is required by existing regulations, easements, covenants, agreements, or Ordinances, the provisions of this Ordinance shall control. Regardless of any other provision of this Ordinance, no land shall be used and no structure erected or maintained in violation of any State or Federal pollution control or environmental protection law or regulation.
- B. When the proposed correction is consist with the Village of Bosque Farms Comprehensive Plan, the Governing Body shall, by Ordinance, correct the Zone Map mistakes upon the determination that the mistake occurred due to clerical or mapping errors.

#### **10-1- 26 APPEARANCE.**

Any applicants or their agents submitting a Conditional Use, Variance, Zone Change, Zone Text Amendment, or Appeal request shall appear in person at any meeting or hearing scheduled to consider the respective applications. If the applicant is not the property owner, the property owner shall submit a notarized letter authorizing a designated agent to appear at the public meeting. The property owner or his designated agent shall be present at the public meeting. If any applicants or their agents do not appear in person at the respective meeting, the application will be denied and any fees paid will be forfeited to the Village of Bosque Farms.

#### **10-1-27 SEVERABILITY.**

The provisions of this Ordinance shall be deemed to be severable, and should any Section, paragraph, or provisions hereof declared by the courts to be unconstitutional or invalid such holdings shall not

affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

### **10-1-28 REPEAL.**

Sections 10-1-1 through 10-1-29 are hereby repealed. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any existing violation of said Sections 10-1-1 through 10-1-29 if the violation is also a violation of the provisions of this Ordinance.

### **10-1-29 EFFECTIVE DATE.**

This Ordinance shall become effective five (5) days after its Adoption, Approval and Publication as provided by law.

**PASSED, APPROVED AND ADOPTED THIS 6TH DAY OF AUGUST, 2015.**

\_\_\_\_\_  
Robert G. Knowlton, Mayor  
Village of Bosque Farms

(SEAL)

ATTEST: \_\_\_\_\_  
Gayle A. Jones, Clerk/Administrator